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ORIGINAL

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES



Department of Land Management Conference Room ITC Building, Tamuning



Thursday, February 9, 2017 1:40 p.m. to 4:40 p.m.

GUAM LAND USE COMMISSION

Regular Meeting

Thursday, February 9, 2017

Department of Land Management Conference Room 3rd Floor ITC Building, Tamuning

MEMBERS PRESENT:

Mr. John Z. Arroyo, Chairman

Mr. Victor Cruz, Vice Chairman

Ms. Conchita Bathan, Commissioner

Mr. Hardy T.I. Vy, Commissioner

Mr. Michael Borja, Executive Secretary

Ms. Kristan Finney, Legal Counsel

Excused: Commissioner Tae S. Oh

PLANNING STAFF PRESENT:

Mr. Marvin Aguilar, Guam Chief Planner

Mr. Penmer Gulac, Case Planner

Mr. Frank Taitano, Case Planner

Ms. Celine Cruz, Case Planner

Ms. Cristina Gutierrez, Recording Secretary

GUAM LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION Attendance Sheet

Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

		Special Quorum	n Quorum
COMMISSION ME	MBERS	SIGN	NATURE
John Z. Arroyo, C	hairman	2	
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Tae S. Oh, Commi	ssioner		Abrest (Kome
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	Legal Counsel	MBy'-	
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GLUC: 4 40PM GSPC:

ADJOURNMENT:

GLUC Form 19 - GLUC Commission Attendance Sheet

GUAM LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION

Speaker's Sign-In Record

Location: Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

X

X GLUC	X Regular Date: Thursday, Febr	uary 9, 2017
GSPC	Special Time: 1:4	سطم
Quorum	No Quorum Adjournment: 4-3	40 pm
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PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
KIKO-CSILOWOMO	2016-13	988-7229
SWAUZY	2011-098	688-8029
CHRIS A-MORATO	2016-01 A/B	687-0369
MICHAELO	fominemiso.	475.8172
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GLUC Form 20 - GLUC Speaker Log Record	d Form - APRIL 2010	

GUAM LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION

Public Attendance Record

Location: Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

X	GLUC	X Regular	Date: Thursday, February 9,	2017
	GSPC	Special	Time: 1:40 pm	
V	Quorum	No Quorum	Adjournment: 4:40 pm	

PLEASE PRINT NAME CLEARLY	APPLICATION NAME AND/OR NUMBER	Telephone No.
KATHY BROWN	WINDWARD HILLS	1.98-0644
ADUILIND CABRINS 14.	716-03 / WIND WARD HILLS.	888636Z
TONOVA PIMSRI	TROIS SECHITEETS.	787 -78/7
Part lon bunen	TRMA ARCHITECTS	417 3285
MATT BECK	TRIVISION Modia	687-7323
CHRIS A MORATO	TRIVISION	627-0369
DIN SIAVEUL.	FP1 20(1-13	6898029
R. Bush / Scich da	TRIVISION	688-7827
Richard Thanking	WINDWARD HILLS	687-0478
LEE D. CARTER	WIND WARD HILLS RESIDENT	927-4820
Jeneffer Casagim	Cabe (nc	688 -8285
Benson Augency	cube inc	649-3411
Dayiel Costron	POST 1.	727-5601
HARRY Sutiens	Consultant	4825315
C MURPHY	windsay hills	4887371
Mark Fist	winderen Hilk	468-3474
T. Sakazar		483-5386
Ed & Gina Penez	Tamung	688-3471
Lara Ozaki	alimpses Publications	480-4570
Neil Pary	Neit DN	797-6743
JUVE PIAS	preninger 0	734.3137
- JOSHE BANTICTA	Vi	734-3737
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GUAM LAND USE COMMISSION

Chairman John Z. Arroyo Vice Chairman Victor F. Cruz Commissioner Conchita D. Bathan

Commissioner Tae S. Oh Commissioner Hardy T.I. Vy

Michael J.B. Borja, Executive Secretary Kristan Finney, Assistant Attorney General

AGENDA

Regular Meeting Thursday, February 09, 2017 at 1:30 p.m.

Department of Land Management Conference Room 590 S. Marine Corps Drive, 3rd Floor, ITC Building, Tamuning [As advertised in the Guam Daily Post on February 2rd and February 7th, 2017

- I. Notation of Attendance [] Quorum [] No Quorum
- II. Approval of Minutes
 - GLUC Regular Meeting of Thursday, January 12, 2017
- III. Old or Unfinished Business
- IV. New Business

Tentative Development Plan/Zone Variance

A. The Applicant, TriVision Media Group LLC represented by Christopher A. Morato; request for a Tentative Development Plan & Zone Variance to erect a 30'0" high LED billboard sign on a portion of the Pacific Bay Hotel parking lot in Tumon, Lot 5114# 1-2-2 NEW, in the Municipality of Tamuning in an "H" (Hotel/Resort) zone, Application No. 2016-01A/B. [GLUC – July 28, 2016]

Case Planner: Celine Cruz

Conditional Use

B. The Applicant, Fargo Pacific Inc. represented by Daniel D. Swavely; request for a Conditional Use permit for a Temporary Workers Housing Facility (FPI Village), Lot No. 5161-1-3, in an "M-1" (Light Industrial) zone, in the Municipality of Tamuning, Application No. 2011-09B.

Case Planner: Frank Taitano

Zone Variance

C. The Applicant, Vantage LLC (Tae S. Oh, Owner) represented by Harry D. Gutierrez; request to install 2-wall mounted electronic LED signs on the front and side walls of a commercial building, Lot 5147-2B-1-R1, in a "C" (Commercial) zone, in the Municipality of Tamuning, Application No. 2016-03.

Case Planner: Penmer Gulac

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES Department of Land Management Conference Room, 3rd Floor ITC Bldg., Tamuning Thursday, February 9, 2017 • 1:40 p.m. to 4:40 p.m.

I. Attendance

Chairman Arroyo called to order the regular meeting of the Guam Land Use Commission for Thursday, February 9, 2017 at 1:40 p.m., noting a quorum.

Present were: Chairman John Arroyo, Vice Chairman Victor Cruz, Commissioner Conchita Bathan and Commissioner Hardy Vy, Executive Secretary Michael Borja, Guam Chief Planner Marvin Aguilar, Planning Staff, Frank Taitano, Penmer Gulac, Celine Cruz and Recording Secretary Cristina Gutierrez

[Chairman Arroyo welcomed newly appointed Commissioner, Mr. Hardy Vy to today's meeting.]

[Excused Absence - Commissioner Tae Oh]

II. Approval of Minutes

<u>Chairman Arroyo</u> first item on the agenda is the review and approval of the minutes of our regular meeting dated January 12, 2017. Those meeting minutes have been circulated, and ready to entertain a motion.

Vice Chairman Cruz motion to approve the minutes of January 12, 2017.

Commissioner Bathan I second.

<u>Chairman Arroyo</u> there being no discussion, the motion was put to a vote with all in favor. [Chairman Arroyo, Vice Chair Cruz, Commissioner Bathan and Commissioner Vy]

[Motion was passed with a vote of 4 ayes, 0 nay. Minutes of January 12, 2017 was approved]

III. Old or Unfinished Business

<u>Chairman Arroyo</u> I would like to reserve and move this item to the end of the agenda if there are no objections from the Commissioners. [No objections noted from the Commission]

Moving on to New Business –

IV. New Business

Tentative Development Plan/Zone Variance

A. The Applicant, Trivision Media Group LLC represented by Christopher A. Morato; request for a Tentative Development Plan/Zone Variance to erect a 30'0" high LED billboard sign on a portion of the Pacific Bay Hotel parking lot in Tumon, on Lot 5114# 1-2-2 NEW, in the Municipality of Tamuning, in an "H" (Hotel/Resort) zone, Application No. 2016-01A/B. Case Planner: Celine Cruz

<u>Celine Cruz</u> read the Commission Brief dated February 2, 2017 to include the background, discussion, recommendation/conditions. In addition, Ms. Cruz read the original staff report of July 20, 2016. [For full content/context, refer to attached brief and staff report]

[Attachment A – Commission Brief dated February 2, 2017 and Staff Report dated July 20, 2016]

Chairman Arroyo any questions or comments of staff. [None noted]

<u>Kristan Finney (Legal Counsel)</u> stated that she was unaware if the Commission had any prior legal guidance on this issue from anybody else pertaining to 21GCA Section 61541 regarding the restriction on the signs.

<u>Chairman Arroyo</u> responded that this always seems to come up everytime the Commission takes a look at these signs, and everytime the Commission discusses these types of applications there is really a need to take a look and maybe see if there is justification for the Commission (or some other body) to review the existing sign law; and maybe, update the law or provide the Commission with some kind of guidance on how to move forward with these types of applications.

Kristan Finney this is the state of the law as it stands now, and these types of signs are not permitted.

<u>Chairman Arroyo</u> from the staff's perspective and point of view, they are not necessarily looking at it from the point of view of the sign law, but more as a tentative development plan in Tumon and relating the type of structure that is intended to be put up as being consistent with the provisions within the tentative development plan. Where the Commission is "stuck" at is that there have been a few of these types of signs that were approved by previous Commissions, as well as the current Commission, and understands completely what Ms. Finney was conveying.

<u>Kristan Finney</u> responded that the Commission "is not stuck with it." Reiterated that this is the law and if a decision was made prior to this the Commission is not "stuck" now and that the Commission has a choice everytime.

Chairman Arroyo any other questions.

<u>Vice Chairman Cruz</u> inquired where the Commission goes from here. Mr. Cruz added, "will the Commission just close the door to these types of applications and say, that's it."

<u>Kristan Finney</u> stated that the law is what it is and understands that it is not a good law; but, there are steps that the Commission can take to get that changed rather than just to ignore it.

<u>Chairman Arroyo</u> is Legal Counsel saying that the Commission does not have the authority to approve a variance to the law.

Kristan Finney the Commission would have authority as far as variance regarding the size, the placement of the sign and things of that nature; but, to say that the Commission is going to grant a variance to completely circumvent the whole intent of the law which is to restrict these kinds of signs. The law states that this type of advertising is not permitted, and the Commission cannot grant a variance and to say that you are going to allow that anyway. That is not a variance, when you have a variance the Commission would still have to be within the scope of the law.

<u>Chairman Arroyo</u> are you saying that the previous decisions to allow these types of signs to be constructed could be questioned or challenged?

Kristan Finney they could be.

Chairman Arroyo by whom? Anyone that feels they were harmed by the decision?

Kristan Finney by anybody....

<u>Vice Chairman Cruz</u> asked Ms. Finney that if someone was to challenge a decision made by the Commission, where would this person go to challenge.

Kristan Finney responded that this is not a question that is being presented at this time.

<u>Vice Chairman Cruz</u> the Chairman asked the question about being challenged. Where would an individual go to challenge?

Kristan Finney replied that they would go to Court.

<u>Vice Chairman Cruz</u> until the Court comes up and tells me that from here on, signs that have been approved are not legal, what is the Commission supposed to do (SIC).

<u>Kristan Finney</u> the Commission is not looking back at anything at this time, rather the Commission is looking at what is current.

<u>Vice Chairman Cruz</u> comments that as time goes on things change. He added that he has not seen anyone come up and say, "here is the law and whatever you are changing it's not legal. I have never seen that come up. These types of signs are new on this island. What does the Commission do?"

Kristan Finney referring back to what the statute says, it restricts advertising and it restricts what can be placed on the signs. If this law is not a good law then action needs to be taken to update the law, and to just call the Commission's attention to this because it is relevant and that the Commission needs to be aware of this restriction.

<u>Chairman Arroyo</u> if the Commission was to go ahead and approve the application and it was challenged, how would you defend the Commission, or would you defend the Commission? You are giving us advice not to move forward with it.

Kristan Finney I am advising you that the law prohibits it.

<u>Chairman Arroyo</u> what you are saying is it would be difficult for you to defend our position if this application is approved. Is that what you are trying to say?

Kristan Finney yes.

Chairman Arroyo Marvin (Chief Planner) or Mr. Borja, do you have anything to add to this.

Michael Borja (Executive Secretary) with all due respect to Legal Counsel, it is advice which the Commission can choose to accept or not accept.

Chairman Arroyo Marvin, you were around since the very beginning of these types of signs.

Marvin Aguilar there is always the appeal process. And once a decision has been reached by the Commission, an individual has two weeks to challenge the decision of the Commission. It is of my own opinion with respect to these structures that do not fit within the realms of signs or how it is described in the law; clearly there have been challenges in other different places as well with the same issues as to whether signs should be permitted or not. My opinion is you cannot call them signs because they do not follow the sign law the way it spells everything out. In the law, it says to address certain uses that are not identified in the law itself, and it is addressed in this way throughout the Zoning Code. My opinion is to take these structures or uses and identify them as items that can vetted through a variance.

<u>Commissioner Bathan</u> when an applicant submits an application, the law that they are referring is not the sign law, but variances.

<u>Marvin Aquilar</u> yes, and we have caught ourselves citing that in terms of the authorization for us to even consider them to be vetted to go before the Commission. We emphasize the section under the variances (Section 61617).

Commissioner Bathan if the sign law is used we do not have the authority to grant.

Kristan Finney to clarify. We are not talking about the word "sign", and we have talked about this before. Because it is titled sign regulations it is not limited to whatever the Commission is going to decide is a sign. It is very broad; "no structure of any kind or character erected or maintained for outdoor advertising or identification purposes upon which any poster, bill, printing, painting or other advertisement or any kind whatsoever is placed." It goes on with a whole bunch of other things, it is very broad. I just want to discourage you from getting hung-up on, well, we're not going to call this a sign and so the sign law does not apply. That is not what the law says; so, just to clarify.

<u>Michael Boria</u> the law further specifies conditions under agricultural, residential, commercial and industrial zoned land, and it excludes and it does not have any discussion in the hotel zone.

Kristan Finney yes, and it says that no sign or no structure (and I don't even know if uses the word sign in here), but no sign can be placed except as provided below and then it lays out the exceptions the types of signs and in what types of zones are permitted. It is very limited. This type of advertising is not permitted under the zone.

<u>Chairman Arroyo</u> within the zones that are identified in the law. Mr. Borja points out that there is no hotel-zone.

<u>Kristan Finney</u> so, there is no exception for this type of advertising. You cannot have a sign except as provided, and then it states what those exceptions are.

<u>Chairman Arroyo</u> it seems as though that the public is supportive of this. The Commission received a letter from the Tamuning MPC who is supporting. With respect to the TDP, there was a public hearing and most of who had attended supported and maybe a few comments that were not necessarily supportive. One of the Commission's charges is that when we look at these things we look at is within the eye of public welfare, safety and what not. How does factoring in those conditions assist us with making a decision with a sign. If it does provide all those conveniences and it good for the community, can't we use that as justification to move forward.

<u>Kristan Finney</u> what the Commission has to do is have the law changed. This is a good thing and everybody wants to do it.

<u>Vice Chairman Cruz</u> can you do something for us. You come up and you say you are representing us. Can you give us a letter in black and white that I can take down to the Legislature

and say, the Attorney General says that everything we are doing is wrong. Can you provide me that? Pertaining to this application.

<u>Kristan Finney</u> well, I am not going to say that everything you are doing is wrong. I am saying that this is what the sign law says.

<u>Vice Chairman Cruz</u> for me, when the time comes and it is challenged I will worry about it at that time. I am not going to hold back progress; I am not going to hold back their development. And if anybody wants to challenge it let them challenge. They have that freedom to do it. For now, you are basically telling us close whatever you are doing and walk out the door because what you are doing is wrong.

Kristan Finney I am just telling you what the law says.

Vice Chairman Cruz I understand.

<u>Chairman Arroyo</u> with your opinion and comments in mind; I think what the Commission should do is go forward with listening to the application, and after that time and we move on a vote and we will continue to discuss at that time. Is there anything else that anybody has of the staff? Any questions? [None noted]

At this time, applicant was invited to come up and give their presentation. [Please state your name for the record.]

<u>Christopher Morato</u> (with Bobby Sachdej and Matthew Beck) good afternoon Commission members. On behalf of Trivision and my partners, I would like to thank you for your time and attention to this variance application this afternoon.

Trivision is an outdoor advertising company that owns the LED display board across the street at the Camacho building in front Coast 360 Bank. We have been operating that for quite some time. Today, we are requesting for a variance to erect a 30-foot high LED sign on a portion of Pacific Bay Parking lot, Lot 5114# 1-2-2NEW within hotel zone in Tumon, Guam for the purpose of off premise and on premise advertising with zero property setback and the use of motion display.

Trivision started its operations in April 2004 which is a little over 12-1/2 years now going on their 13th. The company strives everyday to be responsible members of the community and makes sure that they are responsible members by doing certain things in their business practices, and these are the same thing that they will continue to do at the new location in Tumon if this application is approved. A few of their current practices include that they are a media company and they provide private businesses the opportunity to advertise their products and services on their outdoor media to draw customers to their products and services.

All ads that are advertised are vetted and the company stated that they are very strict about this to ensure that there are no offensive ads that are placed on the billboard such as strip clubs and alike. The display is maintained at the highest level which is serviced by a local service company that is available 24/7 to answer to any issues with the billboard and addressed right of way. The company maintains the surrounding areas of their display and will also do the same at the Tumon location. Landscaping is done when needed along with trash pickup and to ensure that the surrounding area is esthetically pleasing.

There is a very strict policy with regards to vandalism. The company's policy is if any vandalism occurs to their structure or display that it is cleaned up and repaired on the same day.

On technology; Trivision has partnered up with the leading company in the manufacturing of these LED displays in the world and also partnered up with the best engineers on Guam to design the structure to meet all local building regulations, and will also meet or exceed the typhoon wind regulation of 170 mph. The structure in Tamuning is rated for 250 mph winds.

The structure that is proposed is exactly the same as the structure at the Tamuning location which is a single pole design which gives some distinct advantages. One, it is one pole so less of a distraction, less of a visual distraction, less of a distraction as a three pole or four pole display and does not take up very much space because it being a single pole. The new structure will be installed in between parking spaces and will not take up even one parking spot in that parking lot. It will not impede any vehicular or pedestrian traffic whatsoever. The display's access door will be 16-feet off the ground with no ladder access. The only way to access is through a scissor lift which we will have for the maintenance and repair of the display.

Another very important key is the brightness levels of these types of displays. This has been mentioned before and a concern of the community as well as the company's. The latest technology will be used that allows the display to adjust its brightness based on the ambient lighting conditions of anytime during the day. The display will never be at 100% brightness.

The company offers free public service announcements to government agencies and to non-profit organizations that do not have a budget to spread their message to the community. The company consistently reaches out to these organizations and agencies on a daily basis and offers their services to them for free. [Mr. Morato continues to explain how the process works.]

Mr. Morata reads a report based on their audit reports of play times for certain ads for the past ten years. This report shows the past ten years of public service announcements that the company has provided government agencies and non-profit organizations. From 2006 to 2016, a total of over four million public services announcements that the company has given for free to these agencies and organizations which averages 1,154 spots per day for free PSAs.

Chairman Arroyo percentage wise what does that come out to per day?

<u>Christopher Morato</u> it comes out to be about over 15 percent which is quite unheard of. And if Trivision is approved for his variance the exact same thing will be done at the Tumon location. Again, spreading the message for free for these organizations and agencies that cannot afford to do that.

Mr. Morato listed a few to include Make A Wish Foundation, Office of Highway Safety, Guam Crime Stoppers, Bureau of Statistics and Plans, Guam Humanities Council, GMH, Island Beautification Taskforce (or Office of the Lt. Governor), Division of Senior Citizens. This is just a few that were on the list.

Mr. Morata added that they have a handful of letters that they have received thanking them for the service from these organizations and agencies. The company has also received the letter from the Mayor of Tamuning in full support of this project. In addition to the Mayor's Office, a letter was received from the Tamuning MPC approving and full support of the project.

<u>Vice Chairman Cruz</u> did you work with the Mayor's Council? I didn't hear you say anything about the Mayor's Council.

<u>Christopher Morato</u> not the Mayor's Council, but we did work with the Tamuning MPC which was required.

Vice Chairman Cruz my question is have you approached the Mayor's Council of Guam.

<u>Christopher Morato</u> we have not, but we have approached individual Mayors inquiring if they need assistance. The company is more than open to work with the Mayor's Council in order to spread their message as well. As mentioned previously, we offer this on a daily basis to a lot of organizations, and a lot of them do not have the manpower or the ability to create ads to spread their message. We also ask them if they need assistance with this creating ads, but a lot of them do not take advantage of the assistance; however, it does not stop us from asking.

<u>Commissioner Bathan</u> how do you approach those organizations that you are giving free advertisements.

<u>Christopher Morato</u> typically we just walk into their office and present our card. It is really just a phone call or if we know that they have a marketing division then we will contact them or we will just go around.

<u>Commissioner Cruz</u> I suggest you visit the Mayor's Council. Not the individual village Mayor, but the whole council.

<u>Christopher Morato</u> we will do that for sure. These are the key things that we do on a daily basis and we have done this for the last 12-1/2 years at the current location. As responsible community members, we plan to do that at our Tumon location if approved. In closing, I would like to reiterate

our variance request to erect a 30-foot high LED sign on a portion of Pacific Bay Hotel lot, Lot 5114# 1-2-2NEW, within a hotel zone in Tumon, for the purpose of off premise and on premise advertising with zero (0) property setback and use of motion display.

On behalf of my partners and myself and my company, I would like to thank you again for your time and attention. If you have any questions or concerns, we will be happy to address that.

<u>Commissioner Bathan</u> the Bureau of Plans and Statistics commented that the applicant lacks sound justification for the zero-setback variance request. Can you comment on that.

<u>Christopher Morato</u> that is an opinion by that department, and I understand their opinion. But, even that department we have worked a lot with and helped spread their message as well. I really cannot comment as to their opinion.

<u>Commissioner Bathan</u> can you give me your justification for the zero-setback variance.

<u>Christopher Morato</u> the reason why we are asking for a zero setback is because our display needs to be at a certain angle for vehicular traffic and pedestrian traffic to view it, in order for it to be even feasible. If went with the setback of 10-feet, then it would prohibit the visibility of our display; and therefore, it would no longer be viable for our business.

Vice Chairman Cruz the sign does not obstruct traffic, right? Ingress or egress?

<u>Christopher Morato</u> not at all, not even parking. The sign will be located in the parking lot in between parking stalls in the grass area.

[Lengthy discussion ensues on the zero-setback request; height of the proposed LED sign versus current LED sign; brief history on placement of the current LED sign due to power pole, traffic light. Mr. Morato explained that the new sign will be over 100-feet from the stoplight fronting the building.]

<u>Chairman Arroyo</u> will the advertisements in Tumon mirror what is in Tamuning or different.

<u>Christopher Morato</u> they will be different; they will be antonymous signs. So, there will be two different systems and the systems will be remotely controlled at an off-site premise; with two different rotations running. Tumon is a different market area, so it might be more hotel/restaurant kind of ads whereas in Tamuning it is more in-land businesses.

Bobby Sachdei if I may add, it also gives the opportunity for a business that is within that area to also advertise at a much more media to get their message across.

<u>Chairman Arroyo</u> there was a sign down the road that was recently removed what that your sign? [Mr. Morato responded "no that was not."] Do you know why the sign was removed?

<u>Christopher Morato</u> the lease was not renewed. It was on Reef Hotel property it was on and the Reef decided not to renew the lease.

<u>Chairman Arroyo</u> one of the problems we have with signs on Guam aside from what Legal Counsel is mentioning; there are a lot of illegal signs especially down in the Tumon area, just littering the area. How much of that would disappear do you think once you, or if you are able to put yours up?

<u>Christopher Morato</u> that is a key criteria about this industry, outdoor industry. If it is regulated and done properly it will look very nice for the community. It will eliminate illegal signs as you mentioned. The amount of which illegal signs will be eliminated we cannot comment on because we are not sure, but it will help tremendously with partnerships with the pertinent government agencies that will regulate the signs down in Tumon and other areas.

Chairman Arroyo have you been in contact with GVB?

Bobby Sachdei yes we have.

Chairman Arroyo and how did that conversation go?

Bobby Sachdei they did not given any objection to the sign. We have also been in contact with GHRA ---

<u>Matthew Beck</u> Mary (Torre) was going to try to make the meeting today, but had another meeting with Ken Corps.

Chairman Arroyo was she in support of the project? [Mr. Beck responded, "yes she was."]

[No further questions noted from the Commissioners; Chairman Arroyo called for a 10-minute recess at 2:30 p.m. The Commission reconvened at 2:45 p.m.]

<u>Chairman Arroyo</u> do you have anything you would like to add before we open for public comments. [Mr. Morato had nothing further to add and thanks the Commission for the opportunity.]

At this point, we will open the floor for public comment. Please come forward and state your name for the record.

Public Comments

Officer Paul Tapao with the Guam Crimestoppers and the Guam Police Department. I am only speaking on behalf of the Guam Crimestoppers, and on behalf of our Board and the Honorable Chair Divina Evarista.

Officer Paul Tepao (cont'd) the Guam Crimestoppers (GCS) was established in 1985 with a mission to encourage citizens and the community to volunteer vital information helpful to law enforcement agencies to fight crime and to solve them. Throughout the years, the GCS has been successful, with the help of local media and businesses who has contributed to help with their mission.

Trivision Advertising has been a great partner over the years donating free air-time and advertising space to help spread the word about crimes and rewards. As a result, GCS has been an effective tool to fight crime in Guam. GCS is in full support of Trivision Advertising with the application to erect a new digital in Tumon. We recognize their efforts in always keeping the community safe with well-being in mind. Recently, they were instrument in assisting the Guam Police Department in issuing an amber alert and they have also offered countless support so that we can spread the word about crimes in the community, offer details of anonymity and rewards prompted, our standup against violence towards woman campaign and provided public service announcements when bomb threats became risk factors to our schools and local establishments. The Guam Crimestoppers offers its support for Trivision Advertisement.

On behalf of the Guam Crimestoppers Board, the Board of Directors; I want to personally take this opportunity to express our sincere appreciation to them for constantly supporting our mission. Signed, dated this day February 9, 2017 by Chairwoman Ms. Divina Evarista.

Chairman Arroyo thank you.

Officer Paul Tepao and if I may add, as the Guam Crimestoppers Coordinator, I have reached out to Trivision numerous times and they have always stepped up to provide that service. We are a non-profit organization and our main focus is particularly issues involving crime on our island. They have helped us time and time again; and through our endeavors, of course, when crime is committed on our island the whole community is affected by it. So, Trivision has always been there for us. And on behalf of our Board and our Chairwoman, we fully endorse their application for their petition, of course, through you guys. Thank you so much for your time.

<u>Chairman Arroyo</u> thank you. Is there anybody else would like to provide public comment? [Seeing none, Chairman Arroyo closed the public comment period]

Is there anything you would like to add after you have heard the comments from Guam Crimestoppers.

<u>Christopher Morato</u> we would like to thank the Guam Crimestoppers for showing up today and supporting our project. We will always be in support of their organization, and of course all the other organizations we have supported throughout the years. Thank you again.

<u>Chairman Arroyo</u> any comments or questions from the Commissioners.

<u>Commissioner Vy</u> would you happen to know the size of the proposed sign will be compared to the one in front of the Horse and Cow.

Christopher Morato I believe it is the same size.

Vice Chairman Cruz how about to the first sign.

Christopher Morato it will be slightly bigger then that one.

<u>Chairman Arroyo</u> any other questions or comments? [None] What is the position of the Commission? I am ready to entertain a motion if anyone is ready to put one forward.

Commissioner Bathan Mr. Chair, I would like to make a motion to approve Application 2016-01A, on Lot Number 5114# 1-2-2NEW, Tumon in the municipality of Tamuning for their request to amend the previously approved tentative development plan for the proposed on premise and off premise advertising, subject to the conditions as enumerated by the Chief Planner to include ARC conditions. The approval will be for a period of two (2) years subject to renewal; after two years, they will come to the Commission for an extension of their request.

And I would also like to add as a condition that instead of calling non-profit organizations or other organizations that you would like to put an ad on your LED advertising, that you will flash those free advertising availability or notice on your LED sign instead of calling them. It opens up the free advertising not to only those that you are calling, but to all non-profit organizations and local government.

[For conditions, please see Attachment A – Staff Report]

Chairman Arroyo there is a motion, is there a second.

Vice Chairman Cruz I second.

<u>Chairman Arroyo</u> motion by Commissioner Bathan, second by the Vice Chair. Any discussion? [No discussion noted from the Commissioners]

Chairman Arroyo I do not want to completely ignore Legal Counsel's opinion/advice. But, I think what was demonstrated here especially the comments from the Guam Crimestoppers, that these types of structures provide a desperately needed community service. And I understand the position that we are in everytime when we have to review these signs that we always have to make some kind of decision one way or another on it. I think that if we are going to overstep the boundary, and in this particular case primarily because of the things that you do, the outreach that you make to the community, the services that you provide for free and the testimony from the Guam Crimestoppers, that there is definite benefit here with you moving forward with your sign.

So, I am comfortable with the motion and I am ready for a vote. Kristan, do you want to say anything.

<u>Kristan Finney</u> I just wanted to respond to what you are saying and to actually point out why that this is something that you want to do or want to encourage, that if the law was changed to allow it then the Commission would develop regulations that would govern these types of signs including how much public advertising or if you would want to put a condition that they had to everybody. But, you would be able to do that and be fair across the board.

Chairman Arroyo would we be able to do this ourselves or is it something we would need to

Kristan Finney if it were permitted you could develop regulations.

Chairman Arroyo so, are you saying we do not know if that is permitted.

<u>Kristan Finney</u> I think I have made my thoughts on whether it is permitted pretty clear. You would not be able to develop regulations for something that is not allowed under the law.

<u>Chairman Arroyo</u> we know and we have kind of tossed that around a lot, and I think we probably do need to send it up to the ladder, up to the Legislature or figure out some way that we could do exactly that so we don't have to be hampered by this with what I believe is an old and outdated law that prohibits the good things that you guys do for the community. That being said, thank you Kristan....Mike ---

<u>Michael Borja</u> I will bring this up and try to work on some kind of modification on the law and have some discussion with the Chairman with land committee about this specific issue.

<u>Chairman Arroyo</u> thank you so much. If there aren't any other discussion; all in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioners Bathan and Vy], all opposed say "nay." Motion is approved.

[Motion to approve passed unanimously; 4 ayes, 0 nay]

Moving on to the next item on the agenda -

Conditional Use

B. The Applicant, Fargo Pacific Inc. represented by Daniel D. Swavely; request for a conditional use permit for a temporary workforce housing facility (FPI Village), on Lot No. 5161-1-3 in an "M-1" zone, in the Municipality of Tamuning, Application No. 2011-09B. Case Planner: Frank Taitano

<u>Frank Taitano</u> reads the staff report to include purpose, facts, public hearing results, staff analysis/discussion, recommendation and conditions. [For full content/context, please see attached staff report]

[Attachment B - Staff Report dated January 13, 2017]

<u>Chairman Arroyo</u> any questions or comments of the staff? [None from the Commissioners] When I was reading through the minutes of the public hearing there was a question about Lot 5161-1-2 not being a public road and inquired what that was all about.

Frank Taitano that was a lot that had been severed.

Chairman Arroyo is that being used as access right now?

<u>Frank Taitano</u> yes; explained that the parcel was severed with the intent of making it an access to the lots located in the back, but was never actually dedicated to the Government of Guam and in looking at the map, it has never been labeled as a right-of-way.

Chairman Arroyo who owns that lot?

Frank Taitano the Rios family.

<u>Michael Borja</u> the land back there was subdivided and these were supposed to be the right-of-way accesses to all the subdivided lots. While it was not dedicated specifically as a public road it had to be an easement to serve as access for the subdivided lots.

Chairman Arroyo at this time it is currently being used as an easement.

<u>Frank Taitano</u> that piece of property that serves as an access, it also came up during the Black Construction temporary workforce housing application, and at that point the Rios family noted that because it is serving access to the lots in the back they have no intention of closing it, but they do want to sit down with the government entities to determine the future status of that piece of property. Mr. Swavely will be touching on that matter because it does have a connection with this new consortium that was just formed for the Harmon Industrial Park.

[No other questions noted from the Commissioners, Chairman Arroyo invited the applicant and its representative to conduct their presentation.]

<u>Dan Swavely</u> authorized representative for the applicant Fargo Pacific, Inc. and to my left is Mr. Jay Park who is the President of Fargo Pacific, Inc.

I want to acknowledge the help that we received from both Marvin Aguilar and Frank Taitano throughout this application. These are complicated applications for temporary workers' housing

facilities as you can see by the multiple exhibits provided. They have been very helpful. There are a number of laws and rules and regulations that have to be complied with. I also want to acknowledge the participation and help of Mayor Rivera and members of the public who came out to our public hearing in the past.

In view of Case Planner's thorough staff report and the application itself, and sitting behind me other applicants and members of the public waiting to testify, I am happy to forego the typical walk-through of all the same documents that Frank just outlined and exhibits, and I am just happy to go to questions and answers from the Commission if it so pleases.

Chairman Arroyo any questions.

<u>Commissioner Bathan</u> what is the number of workers you are applying for? Is it 648, 650 or another number that I saw that was different; 640, 648, and 650. There are three numbers which one is it.

<u>Dan Swavely</u> Fargo Pacific is a team member of a larger contracting team. They are bidding on military projects and as part of those requirements they have to show some capability to absorb housing requirements. So, at this point we really don't know what the number is, but we can fit in that many, comfortably, on this lot. That is how that number came about. Once it we reversed engineered it from what a three story building with enough facilities for a common amenities, etc. it came out to 216 places per three buildings. Right now Fargo Pacific does not have any H-2 workers.

Commissioner Bathan will there be a resident manager that will be staying at the facility.

<u>Dan Swavely</u> absolutely; multiple actually, and we have three candidates right now for those positions.

Chairman Arroyo what is your timeline for each of the phases coming online.

Jay Park we would like to have at least Phase I completed and ready by end of next year.

<u>Chairman Arroyo</u> the construction of this facility is not contingent upon you be awarding any of those contracts.

<u>Jay Park</u> currently working on two MACCs, but we do not have any H-2 workers on our current MACC projects. With the current immigration issues it is really hard to tell, but would like to have a facility ready because the two of the bids are in already.

<u>Chairman Arroyo</u> Phase I comes in towards the end of this year, early next year.

<u>Jay Park</u> I hope to get approval from the Commission and then go to the design phase. It will not be this year, but maybe next year.

Michael Borja do you anticipate the overall cost of this development project to be over 3 million dollars or greater.

<u>Jay Park</u> it will be less than 3 million; somewhere between 2.5 and 2.8 million, this is the cost for the three phase development.

<u>Michael Boria</u> reason for asking that question is because there is a new public law that requires the empanelment of additional board members for projects that exceed 3 million dollars.

Dan Swavely we were conscience of that and that is why an estimate was done.

<u>Commissioner Bathan</u> if in case we are unlucky to be approved for the H-2 visa petitions. What is your Plan B for the facility?

<u>Jay Park</u> we are using the warehouse facility at this time, and instead of tearing down the warehouse facility it will be kept as is and to be used as a lay-down yard. There is equipment there at the present time, it is a temporary facility for lay-down yard for our current projects with the Navy.

Chairman Arroyo any other questions? [None noted]

<u>Public Comments</u> Chairman Arroyo opened the floor for public comments; seeing none, public comments was closed.

Chairman Arroyo is there anything you would like to say before a decision is made.

<u>Dan Swavely</u> Fargo Pacific is a member of the Harmon Industrial Park Association which was a recent recipient of the tax credits. And so, we should start to see some improvements on Harmon Industrial Park road; the exact road that was in question at the public hearing. It will be four million dollars over the next four years.

Chairman Arroyo is there anything you would like to add to Frank's discussion on that road.

<u>Dan Swavely</u> no, he is exactly right. That is the history of it and that is where we are today and will be addressed by this association.

Chairman Arroyo I am ready to hear a motion if anybody is ready to put one forward.

Commissioner Bathan Mr. Chair, I would like to make a motion to approve the request for a conditional use for a temporary workforce housing facility on Lot 5161-1-3, Harmon, in the

municipality of Tamuning, subject to the conditions as recommended by staff. (For full list of conditions, please refer to Attachment B.)

Chairman Arroyo motion by Commission Bathan, do I have a second?

Vice Chairman Cruz I second.

<u>Chairman Arroyo</u> no discussion noted. All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Bathan and Commissioner Vy], all opposed say "nay."

[Motion passes; 4 ayes, 0 nay]

Zone Variance

C. The Applicant, Vantage LLC (Tae S. Oh, Owner) represented by Harry D. Gutierrez; request for a zone variance to install 2-wall mounted electronic LED signs on the front and side walls of an existing commercial building, on Lot 5147-2B-1-R1, in a "C" (Commercial) zone, in the Municipality of Tamuning. Application No. 2016-03.
Case Planner: Penmer Gulac

<u>Marvin Aquilar</u> for the record this application had been modified from putting two signs on top of the roof of the existing property to the front and wide walls of the building. Mr. Aguilar continues to summarize the staff report to include purpose, facts, staff analysis/discussion, public hearing, recommendation and conditions. [For full content/context, refer to attached staff report]

<u>For the record</u>: Condition 2-A was obsolete since fencing will no longer be required since the application location of the signs was modified. In addition, condition 3-A&B was also obsolete; as of today's meeting date (2/9/2017) a letter of support was received from the Mayor of Tamuning in favor and supports the installation of the LED signs.

[Attachment C - Staff Report dated February 3, 2017]

Chairman Arroyo asked Mr. Aguilar to reiterate conditions for clarification.

Marvin Aguilar reads all conditions with the exception of conditions 2-A, and 3-A/B.

Chairman Arroyo any questions or comments.

Kristan Finney I don't if the Chief Planner has had the benefit of other legal counsel on this, but I just want to make it clear that I was not consulted for input. So, this analysis is from the planning perspective; but, I don't want you to look at it and think that there was any legal analysis that was done. Unless you can correct me if you had some input from other legal counsel.

Marvin Aguilar just from what we have picked up so far in discussion from the Commission.

Kristan Finney there was no anybody else like from the AG's Office. (Mr. Aguilar, responds "no.") So just to clarify, this is not a legal analysis and I just want to make that clear because there is some discussion in here about the impact of different laws and what you have authority to do and I just want to make it very clear that you don't take this as a legal analysis. I didn't have any input on this from legal counsel.

<u>Chairman Arroyo</u> I do want to point out for the record that the owner of Vantage LLC who is Tae S. Oh who is also a Commissioner of this committee. Tae is not here today, so we do not have any issue with the conflict of interest. He is not participating in any of the discussion. I have not spoken with Tae personally about this application. Please let me know from the rest of the Commissioners if he has spoken to you. [No comments noted from Vice Chairman Cruz, Commissioner Bathan and Commissioner Vy]

Just for the record, we do not believe that there is any conflict of interest with Mr. Oh who is not in attendance today.

Commissioner Bathan how many wall-mounted LED signs are there currently on Guam?

<u>Marvin Aguilar</u> the Agana Shopping Center has wall-mounted LED signs, but approved for wall-mounts that faces into their parking lot and not necessarily into the general public. It is sort of self-serving.

Chairman Arroyo any other questions.

Michael Borja is this site greater than 100-feet from the intersection.

Marvin Aquilar I have not made that analysis, but that it can be done during the building permit process. The objective here is they wanted to keep in on the building; it was not going to be a standalone.

<u>Michael Borja</u> the issue with DPW was the intensity of the lights near a traffic light on federally funded highways. The other question I would have is are we going to include in our conditions the requirement for having an adjustable illumination of the signs. It is not one of your conditions.

Marvin Aquilar there is an understanding on the technology behind these LED signs that they provide dimmers.

<u>Michael Borja</u> I know that the discussion from the client said that they had the technology and it would be part of the sign; but, we need to ensure that it is included as a condition so that a violation of that could be a cause.

<u>Chairman Arroyo</u> Mike (Borja), to answer your question. On the cover letter addressed to the Commission it states on the bottom of the first sign that the sign would be approximately 50-feet away from Marine Corps Drive.

[Discussion ensues on distance of the sign from the traffic light/intersection]

<u>Chairman Arroyo</u> perhaps the applicant's representative can clarify that. Are there any other questions? Please state your name for the record.

<u>Kiko Crisostomo</u> [with Vantage LLC. Also with Mr. Crisostomo was Fred Horecky, Attorney and Harry Gutierrez, consultant for this application]

The application is very similar to what we have seen previously with Trivision as well as Cherry Media. I would like to, if it is okay with the Commission, forego what they have already said and just highlight on the differences that we have.

The main two would be; one, the LED signs are wall-mounted unlike Trivision's so they will not be free-standing. The LED signs will be mounted to a building that is owned by the owner. Because Mr. Oh is the owner of that building he will also be advertising his business there that he has (a tutorial business) as well as his tenants that occupy the building. They will be advertising on these screens.

<u>Chairman Arroyo</u> will you be advertising any off-premise businesses?

<u>Kiko Crisostomo</u> yes, as well as public service announcements very similar to what Trivision is doing.

Chairman Arroyo to clarify, you will be advertising off-premise business and PSAs as well.

<u>Kiko Crisostomo</u> yes. Because we are not free-standing we have also ensured that the signs are rated for wind load of upwards of 200 miles per hour. We are working on a typhoon mitigation plan so in the event of a typhoon, our engineer is working on a way to install shutters to protect the signs so that if there is any damage that it is contained within the area.

Those are the main differences; everything is very similar to existing LED signs. The size is the same as Trivision's from earlier as well as Cherry Media, and so it is 200-square feet per screen.

<u>Vice Chairman Cruz</u> pertaining to what the Executive Secretary had mentioned about the traffic intersection. In reading your report, I will ask the consultant; Harry, the 50-feet from Marine Corps Drive is that from the road going back into the building.

Harry Gutierrez from the sidewalk all the way to the building.

<u>Vice Chairman Cruz</u> if you are standing on Marine Corps Drive facing the building, standing on the sidewalk, and from that sidewalk going in is 50-feet.

Harry Gutierrez that is correct.

<u>Vice Chairman Cruz</u> then the question is where is the traffic intersection there? Are you counting the traffic light or?

<u>Marvin Aguilar</u> because they are a free-standing sign (Trivision) they needed to be about 100-feet from the traffic light. Whereas this sign is going to be on a wall that will be competing, if anything, with other lit signs, and I don't know if this requirement may apply to their methodology. If I am not mistaken (and I could be very well mistaken), I think the reason why that was imposed on Mr. Morato's sign was because it was free-standing.

Harry Gutierrez the sign is about 100-feet away from the intersection.

[Discussion ensues on the distance of the signs at its current location to the traffic light/intersection.]

<u>Chairman Arroyo</u> this could be included as a condition that it be not any closer than a 100-feet from the intersection.

Kiko Crisostomo the signs would be over a 100-feet away.

<u>Chairman Arroyo</u> one of the conditions from the Planning staff is that roughly 20-minutes of every hour is dedicated to PSAs that is fine with you. [Mr. Crisostomo responds "yes, that is fine.] How much of a percentage of the square foot of each side of the building will these signs take up?

Harry Gutierrez it will be less than 10-feet on the front side of the building.

<u>Chairman Arroyo</u> in relation to the total of each side, how much of that is the sign.

Harry Gutierrez the front side is about eight percent and the side is about fifteen percent.

<u>Chairman Arroyo</u> there being no other questions from the Commissioners, Chairman Arroyo opened the floor for public comments.

Public Comments [Seeing none, Chairman Arroyo closed the public comment period.]

Chairman Arroyo anything else you would like to add before we move forward on a decision.

Kiko Crisostomo we would just like to thank the Commission for the opportunity.

Chairman Arroyo what is the pleasure of the Commission.

<u>Commissioner Bathan</u> Mr. Chair, I would like to make a motion to approve the request for a zone variance for sign to erect two (2) wall-mounted LED signs on the front and the side walls of a commercial building, on Lot 5147-2B-1-R1, in a "C" zone, in the municipality of Tamuning, Application No. 2016-03; subject to the recommendation of Planning staff as a condition of approval. [For full list on conditions, please refer to Attachment C.]

<u>Chairman Arroyo</u> there is a motion by Commissioner Bathan, do I have a second.

Vice Chairman Cruz second.

<u>Chairman Arroyo</u> second by the Vice Chair. Any discussion. Again, my comments are, and notwithstanding the advice we got from Legal Counsel, there is some public benefit from these signs and I think that they do out weigh in terms of importance the existing sign law and especially considering the age of the sign law. I am willing again to move forward on this application regardless simply because of the benefits that these signs provide to the community.

On the motion, all in favor say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Bathan and Commissioner Vy.], all opposed say "nay."

Motion is passed; 4 ayes, 0 nay

Zone Change

D. The Applicant, GLS Yama's Co., Inc. represented by Harry D. Gutierrez; request for a zone change from "A" (Agricultural) to "C" (Commercial) zone for the proposed construction of a commercial building with retail/service shops and business offices, on Lot 1-4-R1, Tract 1141, in the Municipality of Dededo, Application No. 2016-31.
Case Planner: Penmer Gulac

Chairman Arroyo Harry, will this proposed project going to cost three million dollars or more.

Harry Gutierrez no it will not.

<u>Penmer Gulac (Case Planner)</u> reads the staff report to include purpose/facts, public hearing results, staff analysis/discussion, and recommendation. [For full content/context of the report, please see attached report.]

[Attachment D – Staff Report dated February 6, 2017]

Chairman Arroyo any questions?

Michael Boria I just want to note that on the applicant's document he supplied a survey map, and on the very front part of this lot closest to Route 3 there is a military utility easement that is 50-feet wide. And that has to be honored as a no-use zone. You cannot build anything on top of it.

Vice Chairman Cruz it can be used for ingress and egress.

Michael Boria it has to be noted that it is an active military utility easement.

Commissioner Bathan do we know what the military utility easement is.

<u>Michael Borja</u> have had to work with a similar issue with a property further on up because it is part of the Chamorro Land Trust. They will not tell me what is in there. My belief that it is an old utility easement which they do not want to surrender and they are reserving it for future use.

[Discussion ensues on easements along this region most especially across the highway.]

<u>Commissioner Bathan</u> I have a question for Penmer. What is the zoning for Lot 1-3-R1 and 1-4-R1, and 1-2-1, adjacent to the subject lot.

<u>Penmer Gulac</u> they are all still zoned agricultural. Property owners were notified of the public hearing.

<u>Commissioner Bathan</u> were there any present at the public hearing and did you have any comments from them.

<u>Penmer Gulac</u> none of the property owners were present. They wanted clarification whether or not the road will be improved for access to their property and to Route 3. The applicant said that they will improve the road and make it safe for all to traverse. It traverses over the POL. They were all in support of the application provided that the access for the property owners in the back. The Mayor of Dededo also addressed the issue at the public hearing.

Michael Borja is it an unimproved road at present.

Penmer Gulac it is only about 12-feet of asphalt.

Marvin Aguilar it is a 40-foot access.

<u>Chairman Arroyo</u> it's a 40-foot access but only 12-feet is paved. [Mr. Gulac responds "yes, Mr. Chairman."]

Any other questions? [None noted]

<u>Harry Gutierrez</u> (representing the Yama's Corporation) Penmer has elaborated on every aspect of the concerns of adjoining landowners, and the owner has made it clear that the following concerns will be addressed. First, the owner has no intention of allowing a night club business because it is within 500-feet of a school, and secondly, the road will be widen. The entrance of the proposed building will be further forward so that the traffic will not be backed up as you turn off on Route 3. The exit would be right on Route 3 coming out. Third, the owner will be putting in a sewer line and will be bringing it all the way out to the edge of the property line, manhole so that it can be tapped into; and four, a water line will also be put in.

<u>Chairman Arroyo</u> is that 500-feet to the boundary of the school.

<u>Harry Gutierrez</u> responded to the boundary of the school.

<u>Marvin Aguilar</u> explained that the subject lot is literally about two lots plus an easement away from the perimeter fence line.

Chairman Arroyo retail establishments cannot sell alcohol.

Harry Gutierrez a retail store can sell alcohol, but it cannot be consumed on premise.

<u>Commissioner Bathan</u> you mentioned earlier about certain activities that the owner will not do once the property is zoned to commercial. There is another zoning designation which is called the limited commercial zone. Would this be something that the applicant would be willing to accept; from commercial zone change to limited commercial.

<u>Harry Gutierrez</u> the owners are only planning to build office space at this time. Limited would be conditioned.

Commissioner Bathan because the property is near a school and residential area.

<u>Vice Chairman Cruz</u> I would agree to it if the property was further off the highway. Route 3 is now a major thoroughfare and will be under construction. A lot of activities would change in that area.

[Brief discussion ensues on the possibility of a limited commercial zone for the subject property.]

<u>Chairman Arroyo</u> there being no further questions and/or comments, Chairman Arroyo opened the floor for public comments.

<u>Public Comments</u> [Seeing none, Chairman Arroyo closed the public comment period.]

<u>Chairman Arroyo</u> Harry, anything else you want to add? [None noted] I am ready to entertain a motion on this application.

<u>Vice Chairman Cruz</u> Mr. Chairman, I would like to make a motion to approve the request from GLS Yama's Co., Inc. represented by Harry Gutierrez for a zone change from "A" to "C" zone for the construction of a commercial building and retail service shop and business office, on Lot 1-4-R1, Tract 1141, in the municipality of Dededo, Application No. 2016-31.

Chairman Arroyo motion on the floor by Vice Chair Cruz. Do I have a second.

Commissioner Bathan I will second.

Chairman Arroyo second by Commissioner Bathan. Any discussion? [None noted]

On the motion, all in favor say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Bathan and Commissioner Vy], all opposed say "nay." Motion passes; 4 ayes, 0 nay

V. Administrative and Miscellaneous Matters

E. Wonderful Resorts LLC (dba: Wonderful Windward Hills Resort); request for clarification and approval, on the multi-family use within a previously approved Planned Unit Development (PUD) for the proposed construction of townhomes, on Lot 154-2, -3, and -4, in the Municipality of Yona. [Continuation – GLUC Hearing of 9/8/2016]

Chairman Arroyo the history of this application is that sometime back in the 1970s, this request was approved by the TPC (Territorial Planning Commission), and nothing has happened on the property with respect that we can see to the PUD. There were some pieces of property that were developed and sold along the way and the property has changed hands several times. Back in September, the new property owner came to us with a request to move forward on an initial phase of that PUD plan, and that would be the construction of 12 townhouse buildings for a total of 24 townhouse units. We could not find anything in our records, the old records from the Territorial Planning Commission or any record that detailed or contained the master plan of the PUD, which is a requirement for approval. We are assuming that the plans were submitted at the time it was approved. At that meeting in September (2016), Carl Peterson who was a member of the Territorial Planning Commission was present and he could not recall if anything was approved. This is an approved project. We did ask the current property owner to provide us with something that we could use as a master plan so that in going forward we have something to gage their development on.

Kristan (Finney), between then and now there has been some changes in the law. What we are looking at today is not just the 24 townhouse units. We are looking at the full master plan for the PUD. I am assuming that that is going to be in excess of three million dollars. Do we have to convene the hybrid commission?

<u>Kristan Finney</u> this new law pretty broadly written. It does not give a lot of guidance as to things that were previously approved by the Commission. It looks like you would. The Commission has to make a decision on the project is more than three million dollars; so, it looks like it.

Vice Chairman Cruz requested for Chairman Arroyo to repeat his question.

<u>Chairman Arroyo</u> commented that he was assuming (and did not know this for sure) that the development cost of this project was going to exceed three million dollars, and just needed to know if this Commission had the authority to make that decision today or does the hybrid commission have to convene in accordance with Public Law 33-219, be empaneled because the Commission needed to make a decision today.

<u>Vice Chairman Cruz</u> responded that the Commission had discussed this application prior to the law being put in place. The PUD was approved prior to this law.

<u>Kristan Finney</u> inquired what was before the Commission today, what does the Commission have to decide on.

<u>Chairman Arroyo</u> the applicant was asked to present a master plan that the Commission could accept. Depending on what is provided to us, the Commission will have to ratify it, approve it, a resolution, I am not sure.

<u>Kristan Finney</u> stated that honestly the law was not very clear. The law does not state anything about projects that are already in progress or previously approved; it is silent as to all of that. It looks like you would have to. This is not clear of a question as to some of the other things that has been discussed today.

Michael Borja commented that if the Commission were here to discuss a six month or annual follow up reports that they would have to provide in a situation like this and a decision had already been made. But because this law became enacted and we can use the Pago Bay Resort as an example; that approval was made prior to the passage of this law. But, in our last meeting we were going to discuss a periodic report. So, the question that was posed to me by the author of this bill was should the hybrid had been convened, and I told him that I didn't believe so because we were not discussing or approving anything. We were just going over the status reports that they were supposed to provide. In this case, we are not getting a status report we are having to make an approval on something that is a project, whether it is six duplex units that are going to be part of this discussion that they are seeking approval or if it is just the first element of a massive development that is going to be discussed. I think that the law should apply.

<u>Chairman Arroyo</u> this is an approved PUD. We are going to take action on the master plan. I do not necessarily think that we can go back in time and say no it is not approved anymore. I think all we can say is, we accept or we do not accept.

<u>Vice Chairman Cruz</u> the applicant went to the extent of putting a master plan together. To me, I think we could at least review their plans and discuss this.

[Discussion ensues on the empanelment of the hybrid commission for this application. Ms. Finney commented that if this is a master plan that is projected to have a cost of more than three million that would take the Commission back to the empanelment of the hybrid commission. Commissioner Bathan reiterated that the PUD was already previously approved to which Mr. Aguilar responded that this master plan was a component of the PUD, it is a component of an approved action of the TPC (now known as the Guam Land Use Commission) and this is what is before the Commission today. The applicant is not amending the PUD approval and is simply requesting that the GLUC re-affirms the phases that they are proposing is similar, if not identical or in-line with the intent of the original 1972 approval.]

Michael Boria explained that the background that caused the creation of this new public law as well as the introduction of other elements that also became public law as well, is that people are resurrecting old approved plans that are now coming to life. And residences have changed their opinions on what they believe it should be today. My suggestion at that the time was that a time limit, by law, that anything the GLUC approves is good for five, ten years and beyond that would have to begin again.

Marvin Aquilar PUDs are supposed to be dynamic based on either economic, social or whatever the case maybe. It is dynamic and it changes. The final PUD design is never the same as what was originally intended. And that is why it is called a master plan. They call it something that can be tweaked. Unfortunately in this case, it took them forty, fifty years to get to that point where they are saying, new owner of this property now you can apply this plan of multi-family use on this portion of property that you own. What is being vetted through the Guam Land Use Commission is to see whether or not that this use is consistent or compatible to what is existing.

<u>Michael Boria</u> the intent of the law was to get direct community involvement in the form of the affected mayors to decide on issues of this significance. If I wanted to add something as a recommendation is I would rather err on the side of this law.

<u>Vice Chairman Cruz</u> asked of the Chief Planner that after the applicant presents their master plan, what would the next step be for the applicant. Will the applicant have to come back before the Commission when construction begins or once we affirm the plan it is final.

Marvin Aquilar it is about recognizing a master plan that is supposed to be associated with the PUD. That is the lingering question. What we found in our records is residential use both single family and multi-family dwelling. The TPC approval required the applicant or property owner to come back to the Guam Chief Planner and vet the issue on density. And what that tells me is they really wanted to build that property out and to the point of what density they were going to apply. This was the only condition imposed by the Commission in 1972.

Kristan Finney you talk about it that it is intended to be something dynamic. So, you would not want an applicant to come in and say our project is not going to be over three million dollars, and they come back and it turns out it is. It seems like at that point it would trigger this provision. That is just another way to consider it.

Chairman Arroyo any other comments from the Commissioners.

<u>Vice Chairman Cruz</u> the steps that the Commission is taking today, we affirm that this is the plan. The question is is the applicant going to come back to the Commission and say, on "the plan" we want to build this, this and this. When the applicant gets to that point that is when the question is asked, is this project in excess of three million or less.

<u>Michael Borja</u> the plan has an estimated cost behind it. If an applicant comes in to do a plan and get a request to do some kind of development that the purpose was to involve the community directly in the decision making process. And this was an absolute reaction to issues that came up last year and this specific project, and unfortunately feels that this application falls under this provision.

<u>Commission Bathan</u> commented that at looking at the total number of units for this development which is 488, the cost of the development is definitely over three million dollars whether they build in phases or not, the cost is significantly over the three million dollar mark. If the hybrid commission is empaneled, and if the MPC will disapprove the project does that invalidate the previously approved PUD.

Vice Chairman Cruz that is the question.

Chairman Arroyo I do not believe that it does. It is a matter of the master plan.

[Lengthy discussion ensues. Commissioner Bathan reiterated her concern that if the master plan is not approved what will happen to the previously approved PUD. Mr. Borja added that the previous PUD was dependent on a master plan and there was none and that the Commission would have to assume that there was no plan. Chairman Arroyo clarified, "none that the Commission could apply to this PUD." Mr. Aguilar added that the Planning Division does not have the documentation or master plan to associate with the PUD.]

<u>Marvin Aquilar</u> there were opinions and concerns that drove the this public law 33-219 was crafted, and then it became what it is right now; watered down or following a different direction as to what the original intent was.

<u>Chairman Arroyo</u> we are already facing a lot of confusion with this. And I would hate to move forward and add to the confusion simply because somebody said we should have convened the hybrid commission and didn't. This is just going to muddle the water even more. I am tending

towards agreeing with you Mike (Borja) and Kristan (Finney), that if we are going to make a mistake let us err on the side of caution; and, we convene the hybrid commission and then we address the issue at that point in time what happens if this master plan as proposed is not accepted by the hybrid commission.

<u>Vice Chairman Cruz</u> I understand what you are trying to say. It is almost like you take away the PUD and somebody comes in and has a property that was zoned years ago that is R-2 and he comes in and wants to develop it. Do you take the three million dollars at the time when they want to develop it or do you say, hey, it's R-2, I don't need approval. All I need to do is follow what the R-2 zone requirements are. (SIC)

<u>Chairman Arroyo</u> this is a PUD and the requirement is a master plan which we do not have and that is what we are asking them to submit.

Kristan Finney even if you did not have a hybrid commission it is conceivable that they could present a master plan that you do not approve; what happens in that case. It is the samething (just to answer your question) it does not mean it goes away, it means come up with an acceptable master plan.

<u>Chairman Arroyo</u> Mike (Makio) I am sorry; but, I think that this is the direction that the Commission is going to have to go just to be as conservative as possible.

[It was the order of Chairman Arroyo to continue the review of this application for the next GLUC meeting on Thursday, February 23, 2017.]

<u>Chairman Arroyo</u> I know that you were working on the procedures for the mayors that should be here and make sure that we have the four mayors of the adjoining villages present for this meeting.

Vice Chairman Cruz which mayors will be there.

Michael Borja this is only one municipality, so Yona.

Marvin Aguilar it will be the Yona mayor and three other village mayors that are recommended by the Yona mayor.

<u>Chairman Arroyo</u> one last piece of business that I would like to bring up. I read the minutes for the last meeting (January 12, 2017) regarding Wanfang Construction and their status report. I would like to also put that on the agenda for the meeting and discuss that and try to come to a conclusion with that status report.

<u>Michael Borja</u> recommended that the only two items on the agenda be Wonderful Resorts and Guam Wanfang Construction. He further added that there being two different agenda items; Wonderful Resorts requiring the hybrid commission and the Wanfang update report does not.

[Brief discussion on how to proceed with conducting the next GLUC meeting which requires the hybrid commission. It was noted that Chairman Arroyo will convene the hybrid commission first, followed by the Guam Wanfang status report.]

<u>Chairman Arroyo</u> is there any other items for discussion. [None noted] Motion to adjourn.

Commissioner Bathan motion to adjourn.

Vice Chairman Cruz second.

<u>Chairman Arroyo</u> all in favor say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Bathan and Commissioner Vy]

We are adjourned.

There being no further business for discussion, the regular meeting of the Guam Land Use Commission for Thursday, February 9, 2017 was adjourned at 4:40 p.m.

Approved by: Transcribed by: Mcuston Situacy

M. Cristina Gutierrez, Recording Georetary John Z. Arroyo, Chairman Guam Land Use Commission DLM, Land Planning Division 2/23/2017

Date approved:

ATTACHMENT A



DIPĂTTAMENTON MINANEHAN TĀNO' (Department of Land Management) GUBETNAMENTON GUĀHAN (Government of Guam)



EDDIE BAZA CALVO Street Address: Governor

> RAY TENORIO Lieutenant Governor

MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

February 2, 2017

MEMORANDUM

TO:

Chairman, Guam Land Use Commission

FROM:

Guam Chief Planner

SUBJECT:

Commission Brief - Application No. 2016-01 A/B Tentative Development

Plan and Zone Variance, Lot 5114#1-2-2 New, Tumon, Municipality of

Tamuning

1. Background:

Applications 2016-01 A and B were originally scheduled for review by the Guam Land Use Commission (GLUC)on July 28, 2016, however, due to issues with the number of Commissioners required to vote, this application was removed from the GLUC agenda.

Shortly after the Commission's decision to postpone the review of the application, TriVision Media Group, LLC submitted to Planning Division staff Resolution No. 2016-002 from the Tamuning-Tumon-Harmon Municipal Planning Council (MPC) relative to supporting the request for zone variance to install a double sided outdoor Led billboard sign on Lot 5114-1-2-2-NEW, in the municipality of Tamuning, in an "H" zone.

2. Discussion:

Our staff report dated July 20, 2016 included a recommendation to approve with conditions both the Tentative Development Plan and the Zone Variance request. The absence of comments from the Tamuning Municipal Planning Council at the time of the preparation of the staff report were of concern as we wanted to ensure the viewpoint of the MPC was obtained for consideration for any future actions by the Commission regarding this site. A resolution has been issued in favor of the zone variance and is attached.

3. Recommendation:

We affirm our recommendation for approval with conditions as noted in the Staff report dated July 20, 2016.

Senseramente,

Attachment

Case Planner: Celine Cruz

.auilar

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TAMUNING-TUMON-HARMON MUNICIPAL PLANNING COUNCIL

Resolution No. 2016-002

Introduced By: Mayor Louise C. Rivera

Vice-Mayor Kenneth C. Santos

Javier Atalig

John Thomas Brown

John Camacho

Vincent Camacho

Leo Casil

Antonio Charfauros

Concepcion Duenas

Jacinto R. Estella Jr.

Michael Lasiste

Rosanne Lastimoza

Catherine McCollum

William Nault

Gregory Perez

Robert Perron

WOOCIET CITOII

Faustino Punzalan

Ronald Taitano

Danilo Tinsay

RELATIVE TO SUPPORTING THE REQUEST FOR ZONE VARIANCE TO INSTALL A DOUBLE SIDED OUTDOOR LED BILLBOARD SIGN ON LOT 5114-1-2-2-NEW, IN THE MUNICIPALITY OF *TAMUNING*, IN AN "H" ZONE.

WHEREAS, the applicant Tri-Vision Media Group LLC, are the developers of the Outdoor LED Billboard sign, and are leasing Lot 5114-1-2-2-NEW from Guam Tumon Company DBA: Pacific Bay Hotel, Lessee and Registered Owner Mercedes Santos Agualo; and

WHEREAS, the screen will provide media for public awareness campaigns, public alerts, and assist in promoting products and services; and

WHEREAS, the Chairperson and members of the *Tamuning-Tumon-Harmon* Municipal Planning Council has discussed the proposed zone variance and are in the opinion that the change would not have any detrimental impact on the community; and now therefore be it

RESOLVED, that the Chairperson and members of the *Tamuning-Tumon-Harmon* Municipal Planning Council hereby approve the zone variance application No. 2016-01 to install a double sided outdoor LED Billboard sign; and be it further

RESOLVED, that the Chairperson certify to and the Secretary attest to the adoption hereof, and that the copies of the same be thereafter transmitted to the applicant, Tri-Vision Media Group LLC., to the Director of Department of Land Management; to Senator Judith Won Pat, Speaker and Senator Tina Rose Muna-Barnes, Secretary of *I Mina Trentai Tres Na Liheslaturan Guåhan*; and to *I Maga Låhen Guåhan*, the Governor of Guam.

DULY AND REGULARLY ADOPTED ON THIS 2ND DAY OF JUNE 2016. IN THE MUNICIPALITY OF TAMUNING-TUMON-HARMON, GUAM.

CERTIFIED BY:

MAYOR LOUISE C. RIVERA

Chairperson

ATTESTED BY:

DANIE V. A. Sing

Secretary

ATTACHMENT "A" - 1



DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÅHAN (Government of Guam)



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

Street Address: Gov 590 S. Marine Corps Drive Suite 733 ITC Building RA

EDDIE BAZA CALVO Governor

RAY TENORIO Lieutenant Governor July 20, 2016

MEMORANDUM

TO:

Chairman, Guam Land Use Commission

FROM:

Guam Chief Planner

SUBJECT:

Staff Report - Application No. 2016-01A, Tentative Development Plan,

Lot 5114#1-2-2 New, Tumon, Municipality of Tamuning

1. PURPOSE:

- A. Application Summary: The applicant, Tri Vision Media Group, LLC., is requesting an amendment to a previously-approved tentative development plan for a proposed off premise and on premise advertising (electronic variable message sign) structure, located on Lot 5114#1-2-2 New, Tumon, Municipality of Tamuning, Guam.
- B. Legal Authority: Title 21, GCA (Real Property), Chapter 61 (Zoning Law) and Section 61311 "H" (Hotel-Resort) Zone and Section IV (Procedures for Development within an "H" zone) of the Interim "H" Hotel-Resort Zone Rules and Regulations.

2. FACTS:

- A. Location: The subject lot is located in along Pale San Vitores Road, and near to the Fujita Road intersection. It is approximately a quarter of a mile inland from Tumon Bay.
- B. Lot Area: 420+ Square Feet leased portion of Lot 5114# 1-2-2 NEW which is 1.96± Acres or 7,922± Square Meters or 85, 272± Square feet
- C. Present Zoning: "H" (Hotel-Resort) Zone.
- **D.** Field Description: The Pacific Bay Hotel, a four story hotel with restaurants and amusement activities, is located on the subject lot.
- E. Masterplan: "H" (Hotel-Resort)
- F. Community Design Plan: "H" (Hotel-Resort)

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Continuation of Memorandum
Staff Report - Application 2016-01A – Tentative Development Plan
Lot 5114#1-2-2NEW, Tumon, Municipality of Tamuning
Date of GLUC Hearing: July 28, 2016
Page 2 of 5

G. Previous Commission Action:

- 1) On June 12, 1986 the Territorial Planning Commission (TPC) approved with conditions a Conditional Use and Variance of the Tradition Inc. to construct a four story Hotel with a variance for parking.
- 2) On April 13, 1989 the TPC approved with conditions a zone variance for setback on parking stall requirements.
- 3) On May 10, 1990, the Territorial Planning Commission approved with conditions a Conditional Use to amend a prior TPC approval; to provide lots in order to convert a proposed 3 level parking facility into an open space, a recreational area, and a 44 stall valet parking.
- 4) On March 13, 1997, the TPC approved with conditions a Tentative Development Plan for a proposed 2 story extension to the Holida Plaza Hotel.
- 5) On June 30, 1998, the Guam Land Use Commission approved with conditions a Zone Variance and Tentative Development Plan for the expansion of the Tumon Holiday Plaza Hotel with an additional 91 suites.

3. <u>APPLICATION CHRONOLOGICAL FACTS:</u>

- A. Date Application Accepted: October 13, 2015
- B. Date Heard By ARC: November 5, 2015
- C. Public Hearing Results: Not required.
- 4. <u>DISCUSSION and STAFF ANALYSIS</u>: TriVision Media Group, LLC proposes to enhance the atmosphere of the San Vitores Drive by placing an attractive electronic variable message near the Fujita Road Intersection. The further provides the sign will operate twenty-four hours a day and purports a benefit to the community by promoting goods and services presently available or to be made available in the near future, promotion of goods and services not located on the property, and promotion of local government and non-profit organization service announcements as well as Public Service Announcements.

The structure's location as depicted in the site plan will be at zero setback from the existing Right-of-Way, however the location and function of the structure as it is supported by a monopole is not intended to impede on any elements of the hotel/resort complex such as the landscaping, traffic and pedestrian circulation or parking. Likewise the structure will not obstruct the view from the street level.

Continuation of Memorandum Staff Report - Application 2016-01A - Tentative Development Plan Lot 5114#1-2-2NEW, Tumon, Municipality of Tamuning Date of GLUC Hearing: July 28, 2016 Page 3 of 5

The applicant proposes to install a free standing LED structure in the heart of the Tumon's "hotel row". Pursuant to Title 21GCA, §61311, the nature of the Resort-Hotel zone is to provide for:

- 1. high-intensity development in a compatible arrangement of structures and uses in a unique setting;
- 2. Designed for promoting a superior level of convenience, comfort and amenity within the zone;
- 3. To encourage safe and pleasant pedestrian circulation;
- 4. To preserve existing attractions; and,
- 5. To assure beneficial visual relationships from principal viewpoints [sic].

Development (within this zone) shall be designed to establish an open character, with higher portions of buildings well-spaced and oriented with respect to principal views from within the zone. Pedestrian circulation systems shall form a convenient and coordinated network through buildings and landscaped open spaces, supplementing sidewalks along streets; and where extensive areas of the shoreline are in such configuration as to allow it conveniently, walkways and/or bikeways shall be provided along the waterfront on both public and private property. Since hotels complement other activities in this zone without creating excessive automotive traffic, it is intended to permit higher floor-area ratios for hotel uses than for other uses within the zone. Since the zone is separated from major parking facilities in adjoining areas, it is intended that off-street parking requirements shall apply within its boundaries [sic].

Accordingly, with respect the intent of the law as stated above the request appears to be consistent with Section 61311 as it purports little to no anticipated adverse impact to the existing hotel operations or other surrounding tourism-related activities or operations (i.e. the request does not require additional parking; and the structure does not reduce the amount of parking available to the hotel facility).

Apart however and perhaps most relative to this application section 61311 further identifies with the intent to encourage high-intensity development, to which is anticipated to create a view of the unusual visual exposure, so much so that the law prohibits adverse visual influences such as excessive signs, inappropriate lighting and open-storage. In this respect, perhaps compatibility or consistency can be achieved by assuring the LED sign does not contribute to visual blight and include conditions effecting operational use to include, but not limited, controlling brightness through technical means, restricting hours of operations, and assessing viability of proposed yard setbacks with surrounding uses.

Continuation of Memorandum
Staff Report - Application 2016-01A – Tentative Development Plan
Lot 5114#1-2-2NEW, Tumon, Municipality of Tamuning
Date of GLUC Hearing: July 28, 2016
Page 4 of 5

- 5. RECOMMENDATION: Based on the above discussion and analysis, we find that the applicant has demonstrated such request to be in line, consistent and compatible with the Interim "H" Hotel-Resort Zone Rules and Regulations and that the activity is reasonably compatible with existing or reasonably foreseeable development in the surrounding area. Therefore, we find it proper that it be considered favorably by the Guam Land Use Commission. Recommend APPROVAL WITH CONDITIONS as follows:
 - a. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement;
 - b. That any future additional development or changes to the approved site plan shall require the Applicant to submit an amended TDP application for review and approval by the Guam Land Use Commission;
 - c. That pursuant to the Interim "H" Resort-Hotel Rules and Regulations, Paragraph F, the improvements as specified in the TDP shall be completed within 1 year from date of Commission approval;
 - d. The applicant shall comply with the Interim "H" Resort-Hotel Rules and Regulations Yard Area and Height Regulations.
 - e. That the Applicant shall also ensure compliance to the 1-year time restriction that states a "grading or building permit must be obtained from date of recordation of the Notice of Action; otherwise the approval as granted by the Commission be "NULL and VOID" per Executive Order 96-26, Section 5";
 - f. The Applicant shall provide a Landscaping Plan pursuant to Section 5, G of the Interim "H" Resort-Hotel Rules and Regulations for review and approval by the Guam Chief Planner;
 - g. Public Law 33-129 relatively expands mayoral duties to include the opportunity to "review and express its support or opposition on all variances applications, zone changes, and government leases involving land with their districts, pursuant to §§ 61623, 61638, and 60115 of Title 21GCA. The Municipal Planning Commission (MPC) of each municipal district to be affected by proposed projects reviewed by the GLUC shall review the request and express its support or oppositions thereon by resolution adopted by a majority of its members, and such resolution shall be forwarded to the GLUC". As of preparation of this report, staff has yet to receive comments for the MPC of Tamuning. Therefore, within forty-five (45) days from the date of Commission action the applicant must secure an opinion or comments from the Tamuning MPC in the form of a resolution.

Continuation of Memorandum Staff Report - Application 2016-01A – Tentative Development Plan Lot 5114#1-2-2NEW, Tumon, Municipality of Tamuning Date of GLUC Hearing: July 28, 2016 Page 5 of 5

Such opinion shall be submitted to the Guam Chief Planner for the purpose assessing such opinion/comments and forwarding finding of such information before the Guam Land Use Commission at its most convenient and regularly scheduled meeting.

Upon satisfying this condition and based on its assessment of findings the Guam Land Use Commission, within its authority, may consider further action to include, but not limited to, affirming its earlier action, amending its actions to include additional conditions or restrictions, and/or outright rescission of approval.

- h. Within one (1) year of operation, where such date shall start at the activation of the LED, the applicant shall submit a report to the Guam Land Use Commission. Such report shall contain information on:
 - i. Any changes to the site plan as a result of adhering to the requirements of regulatory agencies; and
 - ii. An updated affirmation of the Tamuning MPC's support and/or concurrence for continuance of the Tentative Development Plan.

Marvin Q. Aguilar Guam Chief Planner

CASE PLANNER: Celine Cruz

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ATTACHMENT A-1

DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÅHAN (Government of Guam)



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

EDDIE BAZA CALVO

RAY TENORIO Lieutenant Governor

July 20, 2016

MEMORANDUM

TO:

Chairman, Guam Land Use Commission

FROM:

Guam Chief Planner

SUBJECT:

Staff Report - Application No. 2016-01B, Zone Variance, Lot 5114#1-2-2 New, Tumon, Municipality of Tamuning

1. PURPOSE:

- A. Application Summary: The applicant, Tri Vision Media Group, LLC., is requesting a Zone Variance for Use, Sign, and Setback for a proposed off premise and on premise advertising (electronic variable message sign) structure, located on Lot 5114#1-2-2 New, Tumon, Municipality of Tamuning, Guam.
- B. Legal Authority: Title 21, GCA (Real Property), Chapter 61 (Zoning Law), Section 61311 "H" (Hotel-Resort) Zone and Section IV (Procedures for Development within an "H" zone) of the Interim "H" Hotel-Resort Zone Rules and Regulations, and Section 61616, Variances.

2. FACTS:

- A. Location: The subject lot is located in along Pale San Vitores Road, and near to the Fujita Road intersection. It is approximately a quarter of a mile inland from Tumon Bay.
- B. Lot Area: 420+ Square Feet leased portion of Lot 5114# 1-2-2 NEW which is 1.96± Acres or 7,922± Square Meters or 85, 272± Square feet
- C. Present Zoning: "H" (Hotel-Resort) Zone.
- D. Field Description: The Pacific Bay Hotel, a four story hotel with restaurants and amusement activities, is located on the subject lot.
- E. Masterplan: "H" (Hotel-Resort)
- F. Community Design Plan: "H" (Hotel-Resort)

Continuation of Memorandum
Staff Report - Application 2016-01 B - Zone Variance
Lot 5114#1-2-2NEW, Tumon, Municipality of Tamuning
Date of GLUC Hearing: July 28, 2016
Page 2 of 3

G. Previous Commission Action:

- 1) On June 12, 1986 the Territorial Planning Commission (TPC) approved with conditions a Conditional Use and Variance of the Tradition Inc. to construct a four story Hotel with a variance for parking.
- 2) On April 13,1989, the TPC approved with conditions a zone variance for setback on parking stall requirements.
- 3) On May 10, 1990, the Territorial Planning Commission approved with conditions a Conditional Use to amend a prior TPC approval; to provide lots in order to convert a proposed 3 level parking facility into an open space, a recreational area, and a 44 stall valet parking.
- 4) On March 13, 1997, the TPC approved with conditions a Tentative Development Plan for a proposed 2 story extension to the Holiday Plaza Hotel.
- 5) On June 30, 1998, the Guam Land Use Commission approved with conditions a Zone Variance and Tentative Development Plan for the expansion of the Tumon Holiday Plaza Hotel with an additional 91 suites.

3. APPLICATION CHRONOLOGICAL FACTS:

- A. Date Application Accepted: October 13, 2015
- B. Date Heard By ARC: November 5, 2015
- C. Public Hearing Results: (Please see Attachment 2)
- 4. <u>DISCUSSION and STAFF ANALYSIS</u>: TriVision Media Group, LLC proposes to enhance the atmosphere of the San Vitores Drive by placing an attractive electronic variable message near the Fujita Road Intersection. The sign will operate twenty four hours per day and will benefit the community by promoting goods and services presently available or to be made available in the near future, promotion of goods and services not located on the property, and promotion of local government and non-profit organization service announcements as well as Public Service Announcements.

The location and function of the structure on a monopole does not impede on any elements of the hotel/resort complex such as the landscaping, traffic and pedestrian circulation or parking and it does not obstruct the view from the street level. The nature of the H zone is high-intensity, high density anticipated to accommodate more pedestrian and vehicular traffic for hotel and light commercial activities. In essence this type of signage accommodating the advertisement of many different offerings of the immediate area may reduce the number of existing stand-alone signs which clutter and are not maintained along the sidewalks.

The request presents little to no impact to the existing hotel operations, save for the potential for additional patrons of the onsite commercial accessory activities as a result of advertising. The request does not require additional parking; and the structure does not reduce the amount of parking available to the hotel facility.

The application provides justification for a variance request as provided under section 61616 however, it refers to requirements as provided under the sign regulations law or Title 21GCA, Chapter 61, Sub-article 5. In this respect, and in line with similar cases regarding LED or billboard signs we defer to our position that

Continuation of Memorandum
Staff Report - Application 2016-01 B – Zone Variance
Lot 5114#1-2-2NEW, Tumon, Municipality of Tamuning
Date of GLUC Hearing: July 28, 2016
Page 3 of 3

perhaps the sign law may not be appropriate approach to base the Commission's consideration, since our sign regulations outright prohibits deviation from established requirements.

As this request is located in Tumon's "H" (Hotel-Resort) zone, we are of the opinion that the application should be based on merits with respect to *compatibility*¹ between the intended use of a multi-advertisement digital screen and the intent of the law promulgating the existence of the Tumon Hotel zone², and of uses intended to effectuate a positive contribution to the industry.

- 5. <u>RECOMMENDATION:</u> We are inclined to recommend approval however under the authority of the requirements of a Tentative Development Plan. And perhaps the Commission may forego this request for a variance in height and size, but instead on a variance for use with following conditions:
 - a. That the request for a yard setback of zero (0) at the front property line shall only be allowed at the recommendation of the Department of Public Works or any regulatory agency that would encourage such placement for the sake of protecting public infrastructure;
 - b. That any and all advertisement shall be restricted to that of allowable industries within the Tumon "Hotel-Resort" zone, with the exception of activities of ill-repute or vice;
 - c. That for every sequenced hour of advertisement, the applicant shall advertise no more than two (2) public service announcements each day;
 - d. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement;
 - e. That any future additional development or changes to the approved site plan shall require the Applicant to submit an amended TDP application for review and approval by the Guam Land Use Commission;
 - f. That pursuant to the Interim "H" Resort-Hotel Rules and Regulations, Paragraph F, the improvements as specified in the TDP shall be completed within one (1) year from date of Commission approval;
 - g. The applicant shall comply with the Interim "H" Resort-Hotel Rules and Regulations Yard Area and Height Regulations;
 - h. That the Applicant shall also ensure compliance to the 1-year time restriction that states a "grading or building permit must be obtained from date of recordation of the Notice of Action; otherwise the approval as granted by the Commission be "NULL and VOID" per Executive Order 96-26, Section 5".

 Applicant shall provide a Landscaping Plan pursuant to Section 5, G of the Interim "H" Resort-Hotel Rules and Regulations for review and approval by the Chief Planner.

Marvin Q. Aguilar Guam Chief Planner

CASE PLANNER: Celine Cruz

¹ See Interim "H" Hotel-Resort Rules and Regulations.

² See Guam Public Laws 14-41, 14-72, and 14-81.



Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

Mailing Address: P.O. Box 2950 Hagatña, GU 96932

Website: http://land.guam.gov

E-mail Address: Imdir@land.guam.gov

Telephone: i71-649-LAND (5263)

> Eacsimile: 671-649-5383



DIPĂTTAMENTON MINANEHAN TĂNO'

GUBETNAMENTON GUĂHAN



ATTACHMENT 1

MICHAEL JB BORJA Director

DAVID V. CAMACHO Deputy Director



RAY TENORIO Lieutenant Governor of Guahan

November 5, 2015

EDDIE BAZA CALVO

Governor of Guahan

MEMORANDUM

TO:

Chairman, Guam Land Use Commission

FROM:

Guam Chief Planner

SUBJECT:

Staff Report – Application No. 2015-20 Sign Variance

Lot 5067-4, Municipality of Tamuning

PURPOSE:

- Application Summary: The Applicant, Benson Au-Yeung dba The Cube, Incorporated request consideration to construct a twenty-five (25) feet tall free-standing, four-sided frame structure for the purpose of placing (3) 20' x 20' Billboard canvas signs with an area of 400 square feet each on leased portion of Lot 5067-4 in the municipality of Tamuning.
- 2. Authority: Title 21, GCA (Real Property), Chapter 61 (Zoning Law), Sections 61617 Variances & Sub-Article 5, Sign Regulations

B. FACTS:

- The property is located between Nissan Motors and Tumon Horizon Condominium and across the road from Tasi-17 condominium complex and fronts the intersection of Marine Corps Drive and San Vitores Road (also known as Tumon Loop Road) in upper Tumon (See vicinity map).
- Lot Area: Gross lot area is 58,395 square feet, or 5,424 square meters, only a portion of basic lot will be used which is 400 square feet or 4,305 square feet.
- 3. Present Zoning: "C" (Commercial) Zone
- Field Description: There is overgrown vegetation on the entire property. The topography on the site is fairly flat, and gradually slopes from east to west toward Marine Corps Drive (Route No. 1).

- 5. Surrounding Land Uses: The immediate area consists of predominantly office buildings, condominiums and hotels, with sporadic residential apartments and single family dwellings within 750 -1,000 feet radius. There are still vacant lots as well within the surrounding area.
- 6. Master Plan: Commercial
- 7. Community Design: Commercial/Medium Density Residential
- 8. Previous Commission Action: None.

C. APPLICATION CHRONOLOGICAL FACTS:

1. Date Application Accepted: June 3, 2015

2. Date of ARC:

June 18, 2015

3. Date of Public Hearing:

October 28, 2015

(Public Hearing Results are provided on Attachment 1)

- D. <u>DISCUSSION and STAFF ANALYSIS</u>: The granting of a variance requires the following justification:
 - 1. That there are practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Law. The applicant provides that the variance is for increase in height and sign face area. Guam's sign laws have been in effect for almost 50 years with some modifications, allowance for larger sign face and height increase will be accordance with other advertising that already exist in Guam and in U.S mainland cities. The request for variances will reasonable to conform to those signage previously-approved by the GLUC. The height of the sign structure will be 25 feet which is not taller than approved existing stand-alone signs and sign structures such as LED Billboards across FHP, and those in front of Horse and Cow, and on the property of the Reef Hotel (Exhibit H). The size of the 3 Cube's canvas billboard will at 20 feet by 20 feet each, 400 square feet per canvas and not larger existing approved canvas signs/billboard on the corner of ITC Building (Exhibit H).

The sign law restricts the sign height and size foe certain reasons:

- a. Moving or flashing lights area restricted as such large moving lights can sometimes be mistaken for traffic signals and can be confusing. The Cube's Inc., billboard structure will strictly be used as only canvas display;
- b. Since it is not an LED Billboard, it will be mistaken for traffic;

Staff Report – Application No. 2015-20 Sign Variance Lot 5067-4, Municipality of Tamuning Page 3 of 5

The applicant further provides that the Cube's billboard will not obstruct any traffic for following reason;

- a. There is a setback pf 10-feet from the road itself;
- b. There is no traffic from behind or on the either side of the billboard; and,
- c. The bottom of the canvas will have at least 5-feet clearance to provide a clear unobstructed view in all directions.

The requested variances being proposed are consistent with the general purpose and of the sign law, Cube Inc., have demonstrated their proposed billboard sign will not confuse motorists because there are no moving lights and will not obstruct motorists view because of allowing a setback by law of

10 feet and required clearance required by law. Disallowing of the requested free standing sign billboard height and sign face area variance will result in practical difficulties and unnecessary hardship inconsistent with interpretation regarding the general purpose and intent of the law.

- 2. That there are exceptional circumstances or conditions applicable to the property or the intended use that do not apply generally to other properties in the same zone. The property is located in an intersection of one of the few traffic arteries entering and existing one of Guam's most populated tourist areas, Tumon Bay or San Vitores Road, which makes it a unique and exceptional location for the proposed signage/billboard to be displayed. No other property in the same area is visible. Granting approval of the requested variances will be reasonable increase of existing limits in the zoning law as this unique location for a canvas billboard sign.
- 3. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located. The Cube, Incorporated's engineer had spent hours to come up with a design that has the public welfare in mind. The design structure will withstand typhoon conditions according to current building code. (See Exhibit 1). The canvas will also be secure and can weather Guam's harsh climate conditions, and will avoid any injury to property, the public or adjoining neighbors. The Cube Inc. will remove all canvas during typhoon conditions. Additionally, the public will benefit from the new promotional services and public free announcements. The land area will be partially cleared and maintained and the landscaping will be improved to help beautify out island and improve the neighborhood appeal to the tourist arriving on Guam. Further, granting the variance will increase tax revenues from tax generated from rent, advertising income, and other government agencies monthly fees, utility fees. New jobs will also be created to maintain the billboard.
- 4. That the granting of such variance will not be contrary to the objectives of any part of the master plan adopted by the Commission or Legislature. The granting of the variances does not drastically change the area and will not be contrary to the existing uses as it is within the commercial zone. This site and location places the subject lot in an area near a traffic intersection and no significant commercial

Staff Report – Application No. 2015-20 Sign Variance Lot 5067-4, Municipality of Tamuning Page 4 of 5

development is being proposed at the present time. Therefore the granting of the variance will not be contrary to the objectives of any part of the Master Plan of the area as the proposed land use is within a permitted zone.

5. That as to variances from the restrictions of Section 61504 of the zoning law, the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach are upon which the building is to constructed, and that such building will not interfere with or adversely affect the surrounding property owners' or public's right of untrammeled us of the beach and its natural beauty. This criteria is "NOT APPLICABLE" The subject property is not located near or on any public beach area whereby it will affect, hinder, obstruct the ocean beach access for both private residents and the public at large.

As noted in the past, we maintain the position that for the most part requests such as this may perhaps be considered under a use variance, as opposed to a request vetted through the Sign Regulations (Title21GCA, Sub-Article 5). All requests for free-standing LED signs have been vetted through this authority for obvious reasons since one may immediately consider such structures as signs; having the intent to advertise products and services. However, this inherent intent is the only common factor between signs as identified in the law and the latter. The fact remains that billboards, either static or LED-moving, generally serves the purpose of advertising products and services not associated with activities contained in a building or premises, which more than suggests that a conflict exists with the general intent of the law. This is evident in the requirement for free-standing commercial signs that are restricted not only in size and height, but are further restricted to advertisement of products and services provided within the premises where the sign is to be located. Other off-site signs erected for directional purposes, to promote an event, or otherwise, are basically non-compliant.

Consequently, the challenge in assessing such a request may not necessarily rest in vetting the size, height, or other any other attribute to warrant consideration from deviating from regulatory requirements as noted, but for the mere fact that such structures are outright not identified in the Zoning Law itself. And in this respect, perhaps we may agree with the applicant that the law may need to be changed either to outright restrict the use of billboards or address its applicability and use as a nuance to the zoning law, and through appropriate authority of due process, implement associated caveats to guard against potential adverse impacts that may otherwise compromise general provisions established on behalf of zoning and land use. And therefore, what remains is perhaps the need for the Commission to consider vetting this proposal against the general provisions of protecting the health, safety, convenience, and general welfare of the public. This is important since the fact remains the Commission has set precedence having assessed and approved similar proposals with these caveats in mind. Furthermore and notwithstanding the latter, the applicant has submitted this request to the GLUC as means to secure government reliance with the GLUC as the appropriate authority for consideration. With this we remain confidence to provide the following recommendation.

Staff Report – Application No. 2015-20 Sign Variance Lot 5067-4, Municipality of Tamuning Page 5 of 5

E. <u>RECOMMENDATION</u>: Planning Recommends <u>APPROVAL WITH CONDITIONS</u> AS FOLLOWS:

- 1. That the Applicant comply with all Commission and ARC conditions and all permitting requirements;
- 2. No occupancy permit shall be released to the applicant until:
 - A perimeter fence is installed to surround the billboard structure for safety and security purpose;
 - b. A landscaping plan is submitted to and approved by the Guam Chief Planner. Such plan must include a periodic maintenance plan; and
 - A typhoon mitigation plan is submitted to and approved by the Guam Chief Planner.
- 3. In the absence of comments from the Tamuning Municipal Planning Council as of the date this report was officially submitted to the GLUC, we recommend that:
 - a. Within 45 days from approval of this request, to which shall be noted as its GLUC hearing date, the applicant shall secure a letter from the Tamuning Municipal Planning Council. Such letter must contain the MPC's concurrence with actions taken by the GLUC. That such concurrence shall be an expression of the MPC's viewpoint through resolution.
 - b. In the event the MPC provides a dissenting opinion or viewpoint, the applicant must submit such findings to the Guam Chief Planner for the purpose of assessing such opinion and for the Guam Chief Planner to report his findings and/or recommendations to the Commission for its review and consideration.

larvin Q Aguilar

Case Planner: Penmer Gulac

2016-01 Zone Variance TriVision Media Group April 19, 2016 6:00 PM Tamuning Community/Senior Citizen Center

What will be your hours of operation? The LED billboard will be a 24/7 operation. We use technology that adjusts to the ambient light outside.

What is the structure like compared to the one in front of Horse and Cow? We are not sure since that is not our sign. We can't speak for the one near Horse and Cow, because that is not our sign. Our current sign is the one in front of Coast 360 in Tamuning. As far as we can tell, their system only allows for simple adjustments like day or night. Whereas our system adjusts to brightness levels based on current ambient lighting conditions, no matter what time of day.

Comment: This sign is not within what is allowed in the sign law.

Will there be any sound? No.

Is there anything to prevent you from adding sounds? Since a variance is specific in what we can do, if the variance does not indicate that we CAN have sound, then we wouldn't be able to add that. We also have no intension to have audio or any type of sound from our sign.

Comment: Tumon is dark and the area that this sign is proposed to be in is particularly a dark area. I think that the sign would make the area safer since there will be some light. Also, TriVision has a history of maintain their sign and I think it would be a good addition to the area.

If there is flooding, will it affect the sign or electrocute anyone? The installation will be regulated by DPW. We did a lot of research on this design, and the engineers that developed the design for the sign did so following a certain standard for safety. There is underground power to supply power to the sign. Also, the column (which is taller than the ground floor of the hotel) is between 10-12 feet off the ground and all the electrical components are at that level.

Who is responsible for the power bill? TriVision is responsible for the power bill.

Comment: I feel like in terms of visuals, you are coopting the views/sounds. The sign would be invading our quiet enjoyment of our property. All the lights in Tumon make is difficult to distinguish from traffic signals. The lease is for 10 years. If we allow this, it is as if we are giving you the right to be a public nuisance. I do not oppose using buildings for advertisements. You should create partnerships with the hotels to use wall space and put signs there. We need to resolve problems in Tumon – such as flooding. We are losing Tumon – there is no more historical value to it.

Comment: I am worried about the long haul....agree that TriVision is a responsible business but if a lucrative offer comes along to take over operations, we have no guarantee that the next operator of the sign will be the same.

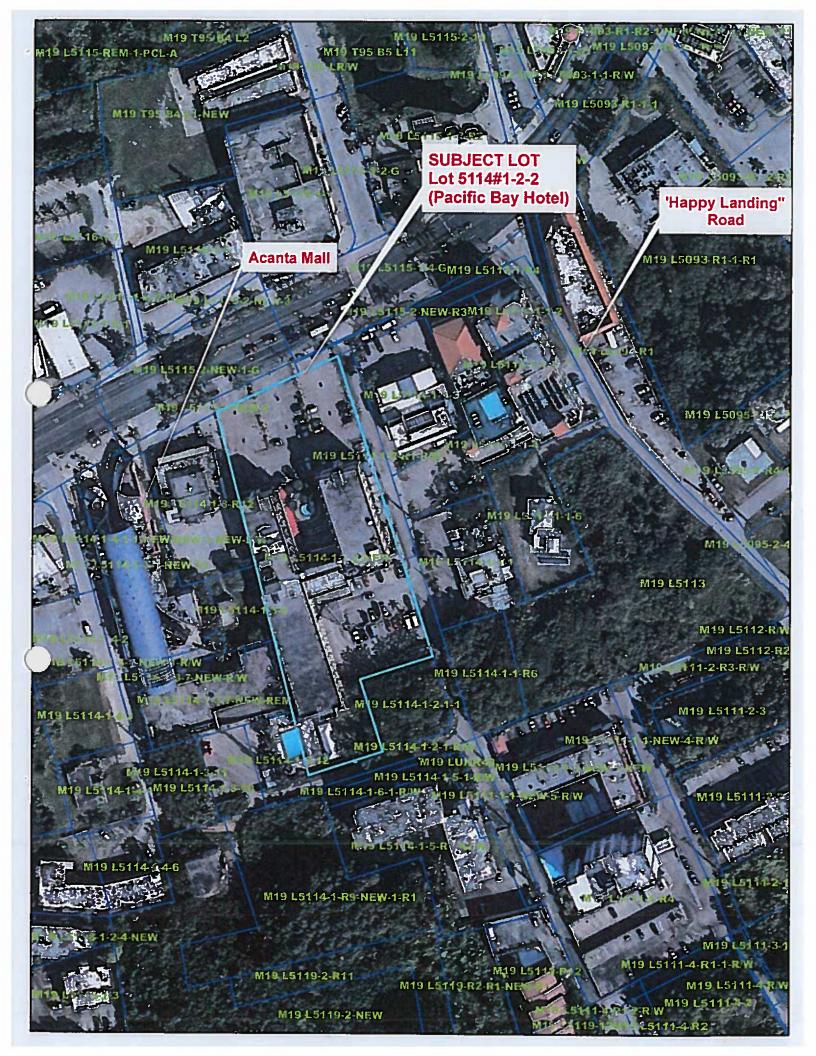
Comment: Concerned that the sign might distract drivers from seeing pedestrians in the area.

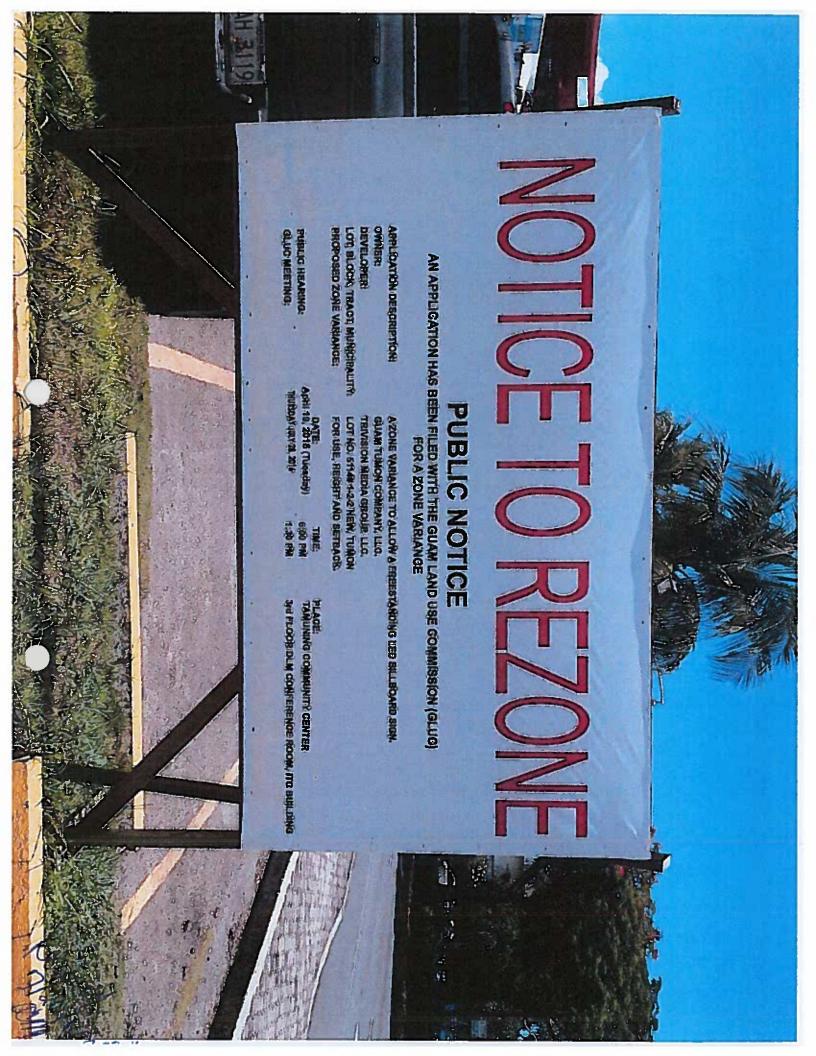
Why did you choose this site? There are a lot of business establishments in the immediate area. Pleasure Island is the only featured are in Tumon. We feel that it would be beneficial to promote other establishments in Tumon, outside of Pleasure Island. The area is lively and we feel a sign like ours will fit in that particular atmosphere.

2016-01 Zone Variance TriVision Media Group April 19, 2016 6:00 PM Tamuning Community/Senior Citizen Center

Will the sign be taking away any parking spaces? No.

Comment: I manage a building adjacent to the proposed sign. A tenant in the building who runs an outdoor restaurant presenting a tropical atmosphere and view. The site for the TriVision sign will not be conducive to the outdoor restaurants' business.





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EDDIE BAZA CALVO Governor

RAY TENORIO Lieutenant Governor

DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÄHAN (Government of Guam)



MICHAEL J. B. BORJA Director

DAVID V. CAMACHO Deputy Director

July 25, 2016

MEMORANDUM

TO:

Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Position Statements by ARC Members

RE: Zone Variance Application – 2016-01

Listed below are the APPLICATION REVIEW COMMITTEE POSITION STATEMENTS as submitted:

PERMANENT VOTING MEMBERS

- 1. DEPARTMENT OF LAND MANAGEMENT: Recommend APPROVAL WITH CONDITIONS: We are inclined to recommend approval however under the authority of the requirements of a Tentative Development Plan. And perhaps the Commission may forego this request for a variance in height and size, but instead on a variance for use with following conditions:
 - a. That the request for a yard setback of zero (0) at the front property line shall only be allowed at the recommendation of the Department of Public Works or any regulatory agency that would encourage such placement for the sake of protecting public infrastructure;
 - b. That any and all advertisement shall be restricted to that of allowable industries within the Tumon "Hotel-Resort" zone, with the exception of activities of ill-repute or vice;
 - c. That for every sequenced hour of advertisement, the applicant shall advertise no more than two (2) public service announcements each day:
 - d. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement;
 - e. That any future additional development or changes to the approved site plan shall require the Applicant to submit an amended TDP application for review and approval by the Guam Land Use Commission;
 - f. That pursuant to the Interim "H" Resort-Hotel Rules and Regulations, Paragraph F, the improvements as specified in the TDP shall be completed within one (1) year from date of Commission approval;

Re: Summary of Position Statement - Application No. 2016-01

GLUC Hearing of July 28, 2016

Date of Preparation of this Memorandum: July 25, 2016

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- g. The applicant shall comply with the Interim "H" Resort-Hotel Rules and Regulations Yard Area and Height Regulations;
- h. That the Applicant shall also ensure compliance to the 1-year time restriction that states a "grading or building permit must be obtained from date of recordation of the Notice of Action; otherwise the approval as granted by the Commission be "NULL and VOID" per Executive Order 96-26, Section 5".
- i. Applicant shall provide a Landscaping Plan pursuant to Section 5, G of the Interim "H" Resort-Hotel Rules and Regulations for review and approval by the Chief Planner.

2. **GUAM ENVIRONMENTAL PROTECTION AGENCY:**

No Position Statement has been received as of the date of this Memorandum of July 25, 2016.

3. **DEPARTMENT OF AGRICULTURE**:

No Position Statement has been received as of the date of this Memorandum of July 25, 2016.

4. **GUAM WATER WORKS AUTHORITY**:

Given the information provided in the application and existing conditions observed in the field, the following is GWA's position on the zone variance application:

1. Prior to any excavation please obtain a utility clearance from the GWA permits office to field-verify GWA's utilities in the construction area.

5. GUAM POWER AUTHORITY:

- A. Comments and Recommendations Concerning GPA requirements:
 - 1. GPA has no objection, however customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
 - Coordinate overhead/underground power requirements with GPA Engineering for new structure.
 - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
 - Maintain adequate clearance between any structures and electrical utility easements in accordance with NESC and GPA requirements.
 - Developer/Owner shall provide necessary electrical utility easements to GPA prior to final connection.
 - Provide scheduling and magnitude of project power demand requirements for new loads.

Re: Summary of Position Statement - Application No. 2016-01

GLUC Hearing of July 28, 2016

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- All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
- 2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
- 3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
- 4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.
- B. General Comments

GPA has no objection to the request subject to the conditions cited above.

6. DEPARTMENT OF PARKS AND RECREATION:

We have reviewed the subject undertaking and have no objection to the approval of the Zone Variance Application. However, before construction at this area commences, the applicant will need to consult with our office. This area has a high possibility to contain cultural deposits that will most likely adversely affect these cultural historic properties.

7. <u>DEPARTMENT OF PUBLIC WORKS</u>:

DPW recommends approval, subject to the comments reviewed by the Application Review Committee (ARC) with the following conditions:

- The display digital billboard must have an ambient light monitor and automatically adjust to the brightness level that will reduce traffic hazards to the pedestrian;
- Lay-out and installation must be well engineered that can withstand (170 mph) wind and, vibration forces;
- Must be in compliance with the Sign Regulations, Part 5 (S61543), Erection of signs under 21 GCA Division 2, Regulations of Real Property (Chapter 61 Zoning Law); and
- Must be also in conformance with the latest Building Code Edition.

8. BUREAU OF STATISTICS AND PLANS:

The Bureau of Statistics and Plans (Bureau) has completed its review of the subject application and the Bureau provides the following comments and recommendations.

1. Design. The Bureau finds that the proposed design is non-compliant by exceeding the sign face and height requirement by an excess of 160 sq. feet and 11 feet respectively pursuant to §61541 (b)(2)(A). However, if the application were to be approved, the Bureau highly recommends the

Re: Summary of Position Statement - Application No. 2016-01

GLUC Hearing of July 28, 2016

Date of Preparation of this Memorandum: July 25, 2016

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applicant coordinate with the Department of Public Works (DPW) Building Official to legally erect the sign pursuant to §61543 as noted.

- 2. Safety. The proposed signs are LED (Light-Emitting Diode), which means brighter images. Moreover, the electronic billboard will impart colorful, flashy, and moving images. the energy efficient nature of LEDs allows them to produce brighter light than other types of bulbs. Electronic billboards are designed to attract attention. The changing colors, bright lights, and moving images can effectively distract drivers. The proposed billboards face Rt. 10, one of Guam's main highways where traffic is exceptionally heavy and demanding. The LED billboards will beckon motorists and steer drivers' attention away from the road. The driver is at much higher risk of being distracted and causing an accident, thus endangering the lives of other motorists or pedestrians. The sign may confuse drivers as it is directly in competition to the official traffic signals for drivers' attention which may lead to misinterpretation of traffic signals. additionally, pedestrians are as likely to be distracted along with drivers. People crossing the street may focus all their attention on the LED sign and fail to notice oncoming vehicles. The Bureau finds that the proposed sign is noncompliant with Guam's sign code, wherein it states that individual signs shall be non-moving and non-flashing as pursuant to §61541 (b)(1)(A).
- 3. Setback. The Bureau finds that the propose4d sign is noncompliant with Guam's sign code, wherein it states that individual signs shall not be placed closer than ten (10) feet to any street or high way right-of-way pursuant to §61541 (b)(1)(B) as noted above. The applicant lacks sound justification for zero setback variance request.
- 4. Erosion Control. Any new development with impervious surfaces will increase runoff and velocity that may cause erosion. If the application were to be approved the Bureau highly advises to employ erosion control methods during and after construction. Impacts begin during construction and influenced by rainfall, site conditions, and the ability to apply proper erosion and sediment control (ESC) practices. The applicant is advised to consult with Guam Environmental Protection Agency (GEPA) in implanting ESC methods. Furthermore, the Bureau encourages the implementation of best management practices in preventing storm water runoff pursuant to Executive Order 2012-03 in the "CNMI and Guam Stormwater Management Manual" and "Erosion and Sediment Control Field Guide." Copies of the manual may be obtained at GEPA or at www.epa.guam.gov.
- Land Use. The North and Central Guam Land Use Plan (NCGLUP) goal
 is to establish land use categories that provide for a mix of residential,
 commercial, civic, and industrial development to meet future population
 and employment needs.

Re: Summary of Position Statement - Application No. 2016-01

GLUC Hearing of July 28, 2016

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Although the proposed project and site location appears to be in line with the NCGLUP Goal Land Use 2, Policy Land Use 5 in the project specifications as well as address the recommendations of this position statement should the application be approved.

In conclusion, the Bureau finds that the purpose, size, type and location of the LED billboards will be an added distraction to motorists and a hazard to the community as it is entirely noncompliant with the Guam sign laws. The Bureau also understands the applicant's desire for the proposed sign and height variance. Consequently, the intent of Guam's sign regulation is to prevent signs such as this, in order to protect the community and motorists from visual blights and potential automobile or auto-pedestrian crashes.

As government officials, it is our primary responsibility to ensure that the erections, location, and maintenance of outdoor signs are in a manner designed to protect the public health, safety and to promote the public welfare and convenience. We further encourage and promote the protection of Guam's natural resources for generations to enjoy.

EX-OFFICIO MEMBERS

9. DEPARTMENT OF PUBLIC HEALTH and SOCIAL SERVICES:

No Position Statement has been received as of the date of this Memorandum of July 25, 2016.

10. GUAM FIRE DEPARTMENT:

No Position Statement has been received as of the date of this Memorandum of July 25, 2016.

11. GUAM ECONOMIC DEVELOPMENT AUTHORITY:

No Position Statement has been received as of the date of this Memorandum of July 25, 2016.

12. GUAM PUBLIC SCHOOL SYSTEM:

No Position Statement has been received as of the date of this Memorandum of July 25, 2016.

13. DEPARTMENT OF CHAMORRO AFFAIRS:

No Position Statement has been received as of the date of this Memorandum of July 25, 2016.

Marvin Q. Aguilar

Chairman, ARC

Case Planner: Celine Cruz

Eddie Baza Calvo Governor of Guam





William M. Castro

James T. McBonald S Deputy Discuss U.S.

JAN 13 2016



To:

Chairman, Guam Land Use Commission

Via:

Executive Secretary, Department of Land Management

From:

Director, Bureau of Statistics and Plans

Subject:

APPLICATION NO. 2016-01; LOCATION: Lot No. 5114# 1-2-2 New, Tumon;

APPLICANT: TriVision Media Group, LLC; PROPOSED USE: Height, Sign,

and Setback Variance for LED billboard sign

Buenas yan Håfa Adai! The applicant, TriVision Media Group, LLC. requests a zone variance application for height, sign, and setback for the erection of a LED billboard sign on a 20'x20' portion of Lot No. 5114# 1-2-2 New, located near the Pale San Vitores Road and Fujita Street intersection, in the municipality of Tumon. The subject property has an area of 85, 271.70(±) square feet or 1.96 (±) acre and is zoned "H" Resort-Hotel zone. The proposed site for the sign is adjacent to various businesses and a major highway intersection operated by traffic lights. The proposed free standing sign will have two 10'x20' face area with each sign face having a 200 square feet area and will be displayed in a "V" formation. The sign will have a total height of 30 feet and will function twenty-four hours daily. The applicant proposes for sign, height, and setback variance with the respective requested and allotted listed as follows:

Allowed	Requested	Difference
40 SQF sign face	200 SQF sign face	160 SQF
(x2=80 SQF)	(x2 = 400 SQF)	(x2=320 SQF)
12 ft. in height	30 ft. in height	18 ft.
10 feet from		
street or high	0 setback	10 feet
way right-of-way		

The Bureau of Statistics and Plans (Bureau) has completed its review of the subject application and provides the following comments and recommendations. We refer to the Guam Code Annotated (GCA), Title 21, Chapter 61 Zoning Law; Part 5 Sign Regulations.



§61541 Restriction of Use.

"No structure of any kind or character erected or maintained for outdoor advertising or identification purposes, upon which any poster, bill, printing, painting, or other advertisement of any kind whatsoever is placed, including statuary for advertising or identification purposes, and no card, cloth, paper, metal, painted or wooden sign of any character placed for outdoor advertising or identification purposes, on or to the ground or any tree, wall, bush, rock, fence, building, structure or thing, either privately or publicly owned, shall be placed or maintained on property adjacent to any highway, road, street, boulevard, lane, court, place, summons, trail, way, or other right of way or easement used for or laid out and intended for the public passage of vehicles or of vehicles and persons except as provided below:

- (b) In Commercial zones, no exterior signs shall be erected displayed or maintained except the following:
 - (1) Signs indicating the name of a person or the type of business occupying the premises or the name of the building, provided that:
 - (A) Individual signs shall be non-flashing and nonmoving.
 - (B) Individual signs shall be placed flat on the building wall, shall not be higher than the roof line of the building, and shall project no further than eighteen (18) inches from the wall to which they are attached.
 - (C) Individual signs shall not cover an area in excess of ten percent (10%) of the surface of the wall to which they are attached.
 - (2) Free standing, doubled faced signs indicating the name of a person or the type of business occupying the premises or the name of the building, provided that:
 - (A) such signs shall not exceed forty (40) square feet in area on each face nor twelve (12) feet in height;
 - (B) such structure shall not be placed closer that ten (10) feet to any street or high way right-of-way; and
 - (C) one such sign shall be permitted for each premises or building."

§ 61543. Erection of Signs.

"All permitted signs shall be erected in such a manner as not to create a hazard to public safety or property, and shall be resistant to winds, typhoon, earthquake or other natural phenomenon. Engineering design shall be based on applicable sections of the Building Law of Guam (Chapter 66 of 21GCA). The Building Official shall set specific engineering design standards. Application, accompanied by detailed drawings and specifications shall be submitted to the Building Official, who will review said plans and grant permit for the erection of said sign, free-standing or attached.

BSP Position Statement Application No. 2016-01 Page 3

The Building Official shall refer said plans to the zoning inspector to assure conformity to the provisions of this Chapter."

- 1. Design. The Bureau finds that the proposed design is noncompliant by exceeding the sign face and height requirement by an excess of 160 sq. feet and 18 feet respectively pursuant to §61541 (b)(2)(A) as noted above. However, if the application were to be approved, the Bureau highly recommends the applicant coordinate with the Department of Public Works (DPW) Building Official to legally erect the sign pursuant to GCA, Title 21, Chapter 61 Zoning law § 61543 as noted above.
- 2. Safety. The proposed signs are LED (Light-Emitting Diode), which means brighter images. Moreover, the electronic billboard will impart colorful, flashy, and moving images. The energy efficient feature of LEDs allows them to produce brighter light than other types of bulbs. Electronic billboards are designed to attract attention. The changing colors, bright lights, and moving images can effectively distract drivers. The proposed billboards face Pale San Vitores Road and Fujita Street traffic light intersection, a busy thoroughfare is exceptionally heavy and demanding. The LED billboards will beckon motorists and steer drivers' attention away from the road. The driver is at a much higher risk of being distracted and causing an accident, thus endangering the lives of other motorists or pedestrians. The sign may confuse drivers as it is directly in competition to the official traffic signals for drivers' attention which may lead to misinterpretation of traffic signals. Additionally, pedestrians are as likely to be distracted along with drivers. People crossing the street may focus all their attention on the LED sign and fail to notice oncoming vehicles. The Bureau finds that the proposed sign is noncompliant with Guam's sign code, wherein it states that individual signs shall be non-moving and non-flashing as pursuant to §61541 (b)(1)(A) as noted above.
- 3. Setback. The Bureau finds that the proposed sign is noncompliant with Guam's sign code, wherein it states that individual signs shall not be placed closer than ten (10) feet to any street or high way right-of-way pursuant to §61541 (b)(1)(B) as noted above. The applicant lacks a sound justification for a zero setback variance request.
- 4. Erosion Control. Any new development with impervious surfaces will increase runoff and velocity that may cause erosion. If the application were to be approved the Bureau highly advises to employ erosion control methods during and after construction. Impacts begin during construction and are influenced by rainfall, site conditions, and the ability to apply proper erosion and sediment control (ESC) practices. The applicant is advised to consult with Guam Environmental Protection Agency (GEPA) in implanting ESC methods. Furthermore, the Bureau encourages the implementation of best management practices in preventing stormwater runoff pursuant to Executive Order 2012-02 in the "CNMI and Guam Stormwater Management Manual" and "Erosion and Sediment Control Field Guide." Copies of the manual may be obtained at GEPA or at www.epa.guam.gov.
- 5. Land Use. The North and Central Guam Land Use Plan's (NCGLUP) goal is to establish land use categories that provide for a mix of residential, commercial, civic, and industrial development to meet future population and employment needs.

Policy Land Use 1 (f) states: "The Tourist/Resort land use category applies to areas needed for commercial uses to serve the traveling public, including hotels/motels, condominium-hotels, single family and multiple family residential uses, golf courses and other typical resort services and retail uses. These categories are located primarily along the shoreline and include existing and future tourist and resort areas."

Although the proposed project and site location appears to be in line with the NCGLUP, the applicant should consider the growing concerns of development to the environment and our community, the applicant should be required to incorporate sustainable community development as specified in the NCGLUP Goal Land Use 2, Policy Land Use 5 in the project specifications as well as address the recommendations of this position statement should the application be approved.

Goal Land Use 2 states: "Promote sustainable community development.

Policy LU-5: Promote environmental sustainability through a variety of measures. Examples of possible measures include green building design, green spaces in urban areas, green infrastructure, greenway and conservation lands networks, transit-oriented and transit-ready development, improved networks for walking and wheeling, site design to promote renewable energy use, and other measures".

In conclusion, the Bureau finds that the purpose, size, type, and location of the LED billboards will be an added distraction to motorists and a hazard to the community as it is entirely non-compliant with the Guam sign laws. The Bureau also understands the applicant's desire for the proposed sign and height variance. Consequently, the intent of Guam's sign regulation is to prevent signs such as this, in order to protect the community and motorist from visual blights and potential automobile or auto-pedestrian crashes.

As government officials, it is our primary responsibility to ensure that the erections, location, and maintenance of outdoor signs are in a manner designed to protect the public health, safety, and to promote the public welfare and convenience. We also encourage the applicants to protect Guam's natural resources and to ensure they are used in a sustainable manner.

JAMÉS T. MCDONALD

cc: GEPA DPW

GWA

DPR

GPA



Department of Parks and Recreation Government of Guam

490 Chalan Palasyo Agana Heights, Guam 96910 Director's Office: (671) 475-6296/7 Facsimile: (671) 477-0997

Parks Division: (671) 475-6288/9 Guam Historic Resources Division: (671) 475-6294/5

Ray Tenorio Facsimile: (671) 477-2822

Roberts, Diama
Acting Director
110 V 1 6 2015
William N. Reyes
Deput Birchy

A

In reply refer to:

RC 2016-0010

November 9, 2015

Memorandum

To:

Executive Secretary, Guam Land Use Commission

From:

Director, Department of Parks and Recreation

Subject:

Application # 2016-01: Application for a Zone Variance to allow a freestanding LED

Billboard Sign within an "H" Hotel Zone

We reviewed the subject undertaking and have no objection to the approval of this Zone Variance Application. However, before construction at this area commences, the applicant will needs to consult with our office. This area has a high possibility to contain cultural deposits that will most likely adversely affect these cultural historic properties.

Should you have any questions, please do not hesitate to call us.

Sincerely,

Robert 5. Lizama

Acting

CO (11/8-15



GUAM POWER AUTHORITY

ATURIDÅT ILEKTRESEDÅT GUAHAN P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

December 22, 2015

m81/4

JAN 4 2816

Department of Land Management Time 0.25 Intl 120

MEMORANDUM

To:

Chairman, Guam Land Use Commission

Executive Secretary, Guam Land Use Commission

From:

General Manager

Subject:

Lots 5114#1-2-2NEW, Municipality of Tamuning, (TriVision Media Group, LLC); Zone

Variance Application to erect a LED Billboard Sign. Application No. 2016-01

Guam Power Authority has reviewed the application described above and submits the following position statement:

A. Comments and Recommendations Concerning GPA requirements:

- 1. Applicant is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
 - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
 - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
 - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
 - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
 - Provide scheduling and magnitude of project power demand requirements for new loads.
 - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
- 2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
- 3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
- 4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

B. General Comments

GPA has no objection to the request subject to the conditions cited above.

JOHN M. BENAVENTE, P.E

ASG/arp

Q

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: Guam Power Authority Applicant: TriVision Media Group, LLC Location: Lot 5114#1-2-2NEW, Tamuning

Type of Application: Zone Variance GLUC/GSPC Application No. 2016-01

Brief Project Description: To erect a LED Billboard Sign.

For the purposes of this Certification, GOVERNMENT SERVICES, FACILITIES, and INFRASTRUCTURE include, but are not limited to: power lines poles and facilities; water lines, pumps and facilities; sewer and liquid waste disposal; storm water disposal; solid waste disposal; telephone lines and facilities; schools; health facilities; police and fire fighting service and facilities; roads; traffic and street lights; parks and recreational activities.

 I hereby certify that the req INFRASTRUCTURE are of Yes 		LE AND IN PLA		oroject:
 If the answer to #1 above is I hereby certify that the req INFRASTRUCTURE are of 	uired GOVERNMEN			
Yes 🗌	No			
 If the required GOVERNM place are NOT AVAILAB services, facilities and infra are currently available and 	LE or they are AVA	ILABLE, BUT Neded, the estimate	NOT ADEQUATE, d cost thereof and w	itemize the hether funds
Services, Facilities and Infrastructure Needed	Cost of Upgrades	Funds Available	Date Available	Funds Identified
Please see comments below				

Comments:

JOHN M. BENAVENTE, P.E. General Manager

Based on a preliminary inspection of the site, the electrical facilities <u>may</u> require upgrading to meet the demand of the proposed project. A system impact assessment maybe required to determine the effect of this facility on GPA's existing power distribution system. The applicant will be responsible for the cost of any required system upgrade.

I hereby certify that the foregoing is true and correct to the best of my knowledge.





GUAM WATERWORKS AUTHORITY

Gloria B. Nelson Public Service Building 688 Route 15, Mangilao, Guam 96913

MEMORANDUM

November 6, 2015

MB"/20

NOV 2 2 2015

Department of Land Management
Time of Land Management

TO:

Director, Department of Land Management

FROM:

Mark Miller, Interim General Manager

SUBJECT:

Position Statement on Application No. 2016-01 for Lot

5114#1-2-2- NEW, in the Municipality of Tamuning in an "H"

(Hotel/Resort) Zone.

APPLICANT:

TriVision Media Group, LLC

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone variance to erect a 30'0" high LED billboard sign on a portion of the Pacific Bay Hotel parking lot in Tumon, on Lot 5114# 1-2-2 NEW, in the Municipality of Tamuning in an "H" (Hotel/Resort) Zone.

This memorandum shall serve as GWA's position statement to the above zone change request related to availability of water and sewer infrastructures to serve the above subject lot. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve property shall be subject to the rules and regulations of GWA. Any required extension to the existing facilities to serve the subject properties shall be at expense of the applicant.

Given the information provided in the application and existing conditions observed in the field, the following is GWA's position on the zone change application:

RECEIVED

Page 2
GWA Position Statement
ARC Application No. 2016-01
Applicant: TriVision Media Group, LLC

1. Prior to any excavation, please obtain a utility clearance from the GWA permits office to field-verify GWA's utilities in the construction area.

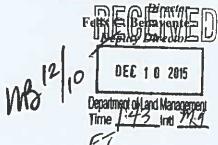
This GWA Position Statement shall remain valid for 365 calendar days from the date of this response. Please contact GWA Engineering Division regarding water and sewer system improvement design and construction standards and procedures. For additional information please contact Mr. Mark Miller, Interim General Manager, at 300-6845.



The Honorable
Eddie Baza Calvo
Governor

The Honorable
Ray Tenorio
Lieutenant Governor





MEMORANDUM

TO:

Director, Department of Land Management

FROM:

Director

APPLICATION:

2016 - 01

APPLICANT:

TRI VISION MEDIA GROUP

SUBJECT:

Zone Variance to Install a Free Standing Bilboard Sign in an "H" Zone

Lot 5114-1-2-2 NEW, Tumon, Guam

Buenas yan Hafa Adai!

The above applicant, proposes to install a 30'-0" high LED billboard sign in a portion of Pacific Bay Hotel parking lot within an "H" zone near the San Vitores and Fujita Drive located in Tumon. The free standing sign will have a two each of 10'x 20' sign face area prominently displayed in a "V" pattern and becomes visible at a safe distance away from the pedestrian motorist approaching from the north and south direction. Vertically the free standing sign will have a height of 23'-0" with 134'-0" off clearance from the ground to the bottom of the sign frame and the sign face will be 10'-0" in height.

The sign will operate 24 hours per day and will impart the following benefits:

 a) promotion of goods and services;
 b) promotion of Government of Guam and Non- Profit Organization service announcements;
 and c) display of public service announcements

DPW recommends approval, subject to the comments reviewed by the Application Review Committee (ARC) with the following conditions:

- the display digital billboard must have an ambient light monitor and automatically adjust to the brightness level that will reduce traffic hazards to the pedestrian;
- lay- out and installation must be well engineered that can withstand (170 mph) wind &, vibration forces:
- must be in compliance with the Sign Regulations, Part 5 (S 61543), Erection of Signs under 21 GCA
 Division 2, Regulations of Real Property (Chapter 61 Zoning Law); and
- must be also in conformance with the latest Building Code Edition.

If you have any questions, please call John F. Calanayan, Acting Engineer in Charge or Maryrose M. Wilson, Engineer III in the Division of Capital Improvement Projects (CJP) at 646-3189 or 646-3224.

Dangkulu na Si Yu'os Ma'ase!

GLEMN LEON GUERRERO

ATTACHMENT B



DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÅHAN (Government of Guam)



MICHAEL J.B. BORJA

DAVID V. CAMACHO Deputy Director

Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

RAY TENORIO Lieutenant Governor

Governor

January 13, 2017

Memorandum

To:

Chairman, Guam Land Use Commission

From:

Guam Chief Planner

Subject:

Staff Report - Application No. 2011-09B, Conditional Use Application

1. PURPOSE:

- a. Application Summary: The applicant, Fargo Pacific, Inc., represented by Mr. Daniel D. Swavely is requesting approval of their Conditional Use request for a Temporary Workforce Housing Facility on Lot 5161-1-3, Harmon, Municipality of Tamuning.
- b. Legal Authority: Title 21, GCA (Real Property), Chapter 61 (Zoning Law) and Section 61303 (Conditional Use), Public Law 31-72 and GLUC Resolution 2009-01.

2. FACTS:

- a. Location: The subject site is the existing Fargo Pacific warehouse and fabrication shop site located on the eastern corner of the junction of J.L. Baker Street and Harmon Industrial Park Road.
- b. Lot Area: 10,000 Square Meters or 107,639 Square Feet.
- c. Present Zoning: "M-1" (Light Industrial) Zone.
- **d. Field Description:** The site is fairly flat and developed and presently maintained as a warehousing and a preconstruction fabrication site with three (3) mechanical shops and two (2) warehouse structures on site.

Mailing Address: P.O. Box 2950 Hagatña, GU 96932

Website: http://dlm.guam.gov

E-mail Address: dlmdir@land.guam.gov

Telephone: 671-649-LAND (5263)

Facsimile: 671-649-5383



Continuation of Memorandum Re: Staff Report - Application No. 2011-09B January 13, 2017 Page 2 of 6

e. Masterplan: Light Industrial

f. Community Design Plan: Light Industrial

g. Previous Commission Action: None

3. APPLICATION CHRONOLOGICAL FACTS:

a. Date Application Accepted: July 12, 2016

b. Date Heard By ARC: August 4, 2016

c. Public Hearing Results: November 30, 2016

(See Attachment "A")

4. DISCUSSION and STAFF ANALYSIS:

The applicant's request is to create a Temporary Workforce Housing Facility on Lot 5161-1-3 in Harmon Industrial Park. The property is zoned "M-1" (light Industrial) and is currently used by the applicant, Fargo Pacific Inc., for warehousing and other preconstruction activities.

As shown on Exhibit "4" (Site Development Plans) the subject lot is located on the western corner of the junction of J.L. Baker Street and Harmon Industrial Park Road to be developed in three phases gradually phasing out the existing shop and warehouse structures presently used for pre-construction activities and warehousing.

The proposed Workforce Housing Facility for temporary Workers established by Public Law 31-72 and GLUC Resolution 2009-01 as a conditional use and as specified by Section 61303 of the Zoning Code, is a specific use permitted upon approval by the Commission of the site plan, including but not limited to, disposal of sewage, access, parking, structural location and dimensions of buildings, impact of the proposed use on adjacent land uses and accompanying covenants that may include performance standards.

The Commission shall also consider such other elements as may be reasonably related to the <u>health</u>, <u>safety</u> and <u>general welfare</u> of the community. With this in mind, we provide the following:

Continuation of Memorandum Re: Staff Report - Application No. 2011-09B January 13, 2017 Page 3 of 6

SITE PLAN

As included on Exhibit "4", the Site Plans for the three phases depicts the following; Phase one is to include a single, three story, workers dormitory structure (Building A), access road, staff & guest, bus and delivery truck parking areas, basketball courts, a BBQ & picnic area, a future expansion site, a security office structure, the two existing warehouse structures and a chain-linked perimeter fence with the entrance/exit gate relocated to J.L. Baker Street from the its present Harmon Industrial Park Road location

Phase two is the addition of a second, three story workers dormitory structure (Building B).

Phase three is for the elimination of the two existing warehouse buildings and the addition of a third, three story workers dormitory structure (Building C), a volleyball court and a single story internet café and fitness center structure.

Each of the proposed dormitory structure are symmetrical in design to accommodate a total of 216 workers with the first floor containing a kitchen, cafeteria seating room, a small theater/function room, a game room, a library, a lounge, a custodians' office, a clinic, storage rooms and rest rooms for both male and female. The second and third floors are to contain the workers bedrooms, a bathroom, a laundry room and a lounge area.

Also included in Exhibit "4" is a Landscaping Plan as a separate sheet in complement to the final site plan (phase three).

In addition, in response to case planner and members of the Application Review Committee (ARC) the applicant's representative submitted a supplemental paper (Attachment "B"), addressing questions in referenced to water and sewer services, the existing perimeter chain-linked fence and location of the entrance and exit gate, storm water retention system, the number of story of the proposed Internet cafe/fitness structure and the location of the solid waste thrash bins.

DISPOSAL OF SEWAGE

The complex is presently connected to the public sewer system and the applicant has been provided a copy of GWA's Position Statement.

STRUCTURAL LOCATIONS and DIMENSIONS OF BUILDINGS

Structures within the proposed complex when it is fully developed (Phase 3) will consists of three (3) symmetrical 3 story dormitory buildings to be located on site as shown on the site plans.

Continuation of Memorandum
Re: Staff Report - Application No. 2011-09B
January 13, 2017
Page 4 of 6

Each dormitory building measures one hundred sixty four point seventy five (164.75) feet x seventy eight point sixty six (78.66) feet or twelve thousand nine hundred fifty nine point twenty four (12,959.24) square feet per floor, at three (3) floors, for a total of thirty eight thousand eight hundred seventy seven point seventy one (38,877.71) square feet in size per dormitory building.

A single story security office structure to be located on site as shown on the site plans measuring fifteen (15) feet x twelve (12) feet or one hundred eighty (180) square feet and a single story internet cafe/fitness center structure to be located on site as shown on the site plans, measuring fifty nine point thirty three (59.33) feet x thirty six (36) feet or two thousand one hundred thirty five point eighty eight (2,135.88) square feet.

The proposed structures are 1-story and 3-story at less than thirty (30) feet in height with a minimum setback of eight (8) feet on the side yards, ten (10) feet on the rear yard and fifteen (15) feet on the front yard, in addition, the proposed structures are to be within the height requirement (no more than 3-storey and at 30'-0" height limitation) and meets the minimum criteria on building height and setbacks.

ACCESS

As proposed, J. L. Baker Street which is a 40 foot wide right-of-way access and utilities easement that connects to the Harmon Industrial Park road is to provide access to and from the complex.

PARKING

Parking within the proposed complex when it is fully developed (Phase 3) will consists of eleven (11) parking stalls for staff and guests and an area reserved for bus parking.

IMPACT OF PROPOSED USES ON ADJACENT LANDS INCLUDING HEALTH, SAFETY and GENERAL WELFARE FACTORS

The applicant in its efforts to address impacts of the proposed TWHF on the adjacent lands has been consulting with the various government entities and local providers to address any issues that might be an impact to the surrounding properties in reference to health, safety and general welfare and included to following in its application:

In regards to water and sewer demand impact, presently the facility is connected to the public sewer and water system and the applicant has submitted a water and sewer demand analysis (Exhibit 7) and was provided a copy of GWA's position statement with reference to GWA's requirements for water and sewer services and exterior grease interceptor "if the TWHF is to include a food preparation facility" (Kitchen).

Continuation of Memorandum Re: Staff Report - Application No. 2011-09B January 13, 2017 Page 5 of 6

As noted on their position statement GWA refers their requirements for water and sewer services to the DPW permitting process where the applicant is required to submit the appropriate plans and specifications for their review and approval prior to construction.

In regards to power, GPA in its position statement submits an infrastructure certification that the government service facilities and infrastructure are currently available and in place, but it is not adequate to support the project which will require the developer to meet the requirements of GPA to adequately support the project.

In regards to health, safety and general welfare, the applicant in its Plan to address the workers' on-island medical needs has submitted a Letter of Intent (Exhibit 8) from a local medical group as a formal commitment to provide health clinic services for residents of the proposed TWHF. To address security, the applicant has submitted a Letter of Intent (Exhibit 8) from a local security agency to provide full security services at the proposed TWHF and maintains a chain-linked fence along the property perimeter of the TWHF. To address in-house and job site feeding, the applicant has submitted a Letter of Intent (Exhibit 8) from a local catering service company to provide meals and related food services to the residents of the TWHF. To address the janitorial/custodial need of the facility, the applicant has submitted a Letter of Intent (Exhibit 8) from a local facilities maintenance company to provide maintenance service to the proposed TWHF. In addition, the TWHF includes a laundry area in each of the dormitory structures, facilities for both active and passive recreational activities are also proposed as part of the proposed facility.

In regards to traffic, the applicant has submitted a Traffic Analysis (Exhibit 7) and provided on-site vehicle parking for staff, guest and bus parking to avoid off-site parking. Applicant also provided a Letter of Intent (Exhibit 8) from a local transportation company to provide transportation services for the residents of the proposed TWHF.

In regards to on-site storm water, the applicant is to provide a storm water retention system to address on-site storm water runoff and in addition, the applicant is providing landscaping to enhance the aesthetic environment of the facility, provide green areas for passive activities, help reduce heat and to also help reduce storm water runoff.

ACCOMPANYING COVENANTS THAT MAY INCLUDE PERFORMANCE STANDARDS

The applicant, under Exhibit "10" has provided a set of House Rules that addresses security and safety practices, including other factors such as personnel access and exit procedures, and personal/social code of conduct.

Continuation of Memorandum
Re: Staff Report - Application No. 2011-09B
January 13, 2017
Page 6 of 6

We have advised the applicant that, when actual operations begin and as new and improved procedures and measures are implemented that these amendments must be incorporated and made a part of the Workforce Housing Facility Rules and Regulations document; and a copy be provided this Department.

Based on our review and analysis of the form and context of this application, in reference to the Zoning Law, as well as the positive outcome in support during the public hearing and lastly, the positive response received from ARC Agencies. We have concluded that the proposed use is compatible with the existing uses in the proximity of the TWHF, and that the applicant has been and will continue to consult with the various Government entities to ensure compliance with their requirements.

Therefore, it is our findings that this requested Conditional Use is in line with the requirements of Section 61303 of the Zoning Code and Public Law 31-72. We find it proper that it be considered favorably by the Guam Land Use Commission.

5. RECOMMENDATION: We recommend APPROVAL WITH CONDITIONS as follows:

- A. That the applicant, adhere to the ARC conditions and requirements as stipulated on their official Position Statement; and,
- B. That this initial approval shall be for Twenty Four (24) Months and therefore shall be renewed annually (Per Section 2(4)(A) of Public Law 31-72); and,
- C. That there shall be no changes to the approved Conditional Use Permit unless subjected before the ARC review and GLUC approval; and,
- D. That when actual operations begin and as new and improved procedures and measures are implemented that these amendments must be incorporated and made a part of the Workforce Housing Facility Rules and Regulations document; and a copy be provided to Planning Division, Department of Land Management.

Marvin Q. Aguilar

CASE PLANNER: F.P.TAITANO

Attachments: ARC Memo to GLUC Members

Minutes of Public Hearing

Application No. 20111-09B – Conditional Use Lot 5161-1-3, Municipality of Tamuning

On November 30, 2016 - 6:10 P.M. a public hearing was conducted at the Tamuning Community Center, present were the applicant's representatives, Mr. Dan Swavely, the Mayor, Ms. Louise C. Rivera and four (4) public attendees.

Case Planner called the meeting to order, introduced himself, the applicant's representative, the application being presented and handed the floor to the representative to present the application.

Mr. Swavely presented the Conditional Use being requested, the applicant and the history of their existence on island, the history and location of the existing facility, the incremental development of the proposed Temporary Workforce Housing Facility (TWHF), the elements of a typical TWHF floor plan and their commitment to adhering to all local and federal requirements.

Comments:

Mr. Tom Clark explained that their business facility located along the access on Lot 5161-1-2 presently gets flooded because of previous work that Black Construction did fronting their facility and our company just wants to be ensured that the runoff from the proposed development does not increase the flooding problem on the street.

Mr. Swavely responded that the Fargo facility will retain all its runoff on site and maintain a system onsite to address all its runoff water eliminating any impact to the street on Lot 5161-1-2, the new design will also relocate the facility's entrance and exit gate from its present location fronting lot 5161-1-2 to the J.L. Baker Street relieving the street on Lot 5161-1-2, any impact from the Fargo facility.

Mr. Frank Rios explained that Lot 5161-1-2 is not a public road, was never labeled as a right-of-way, and was never dedicated for a road.

Mr. Swavely responded that presently, Fargo Pacific's entrance/exit gate is located on the street on Lot 5161-1-2, but the new plan is to relocate the entrance/exit gate to the J.L. Baker Street located on the western boundary of Fargo Pacific's property.

After pointing out the location of the new gate and discussions of Lot 5161-1-2's status should it be acquired for a public easement, Mr. Swavely mentioned that the Legislature is voting on a bill forming a group of Harmon Industrial Park business owners to address the infrastructure issues of Harmon Industrial Park and recommend that Mr. Rios contact the gentleman presently heading the group.

After no further concerns or question was put forth by the attendees the meeting was adjourned at 6:45 P.M.

Frank P. Taitano

Case Planner

Daniel D. Swavely Consulting Services, Inc.

Mr. John Z. Arroyo, Chairman Guam Land Use Commission Department of Land Management Government of Guam P.O. Box 2950 Hagatna, Guam 96910



Subject:

Temporary Workers Housing Facility at Lot 5161-1-3, Harmon Industrial Park

Re:

Supplemental Application #1

Hafa Adai Chairman Arroyo and Commissioners,

This Supplemental Application #1 responds to recent questions from ARC agencies and DLM Planning staff regarding the Subject FPI Village Temporary Workers Housing Facility.

- 1. Is the existing Fargo complex connected to the public sewer and water system?

 Yes. See enclosed November 2016 bill from GWA showing this property has GWA water and sewer services.
- 2. Considering that the entrance/exit gate is to be relocated to J.L. Baker Street, is the perimeter chain link fence to be replaced?

The existing chain link fence is expected to remain, but the current gate will be closed, and a new ingress/egress gate will be added on J.L. Baker Street.

3. Is there an existing stormwater retention system on site?

The current stormwater disposal system is inadequate to accommodate the new TWHF. See enclosed Site Plan, in blue on left side, showing the location of a new trench drain for stormwater disposal. The final disposal system will be reflected in construction plans to be reviewed by DPW. Note this new trench drain is submitted here on the Phase 3 Site Plan, but the stormwater disposal system will be reflected in Phase 1 construction plans.

- 4. Is the Internet cafe/fitness center a single story structure? Yes.
- 5. Is there a location for solid waste (Trash Bin)?

See enclosed Site Plan, in brown on right side, showing location of the trash storage area. Note this new trash storage area is submitted here on the Phase 3 Site Plan, but the new trash storage area will be reflected in Phase 1 construction plans.

Respectfully,

Enclosures as stated

301 Frank H. Cushing Way #1201 Tumon, Guam 96913 (671) 688-8029 dds@guam.net



11/3/

\$462.78

\$462.78

\$512,13

\$512.13

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GUAM WATERWORKS AUTHORITY Ginta i hanom na ta sodda' todu i lina'la P.O. Box 3010, Hagatna, GU 96932

SUPPLEMENTAL ANNUITY SURCHARGE

20,255.20 K GAL at \$0.00708 per K GAL

SUPPLEMENTAL ANNUITY SURCHARGE

Waste Water Commercial 1 Service -

ADDRESS SERVICE REQUESTED

FARGO PACIFIC INC PO BOX 2492 HAGATNA, GU 96932

96932\$2492 BOOi

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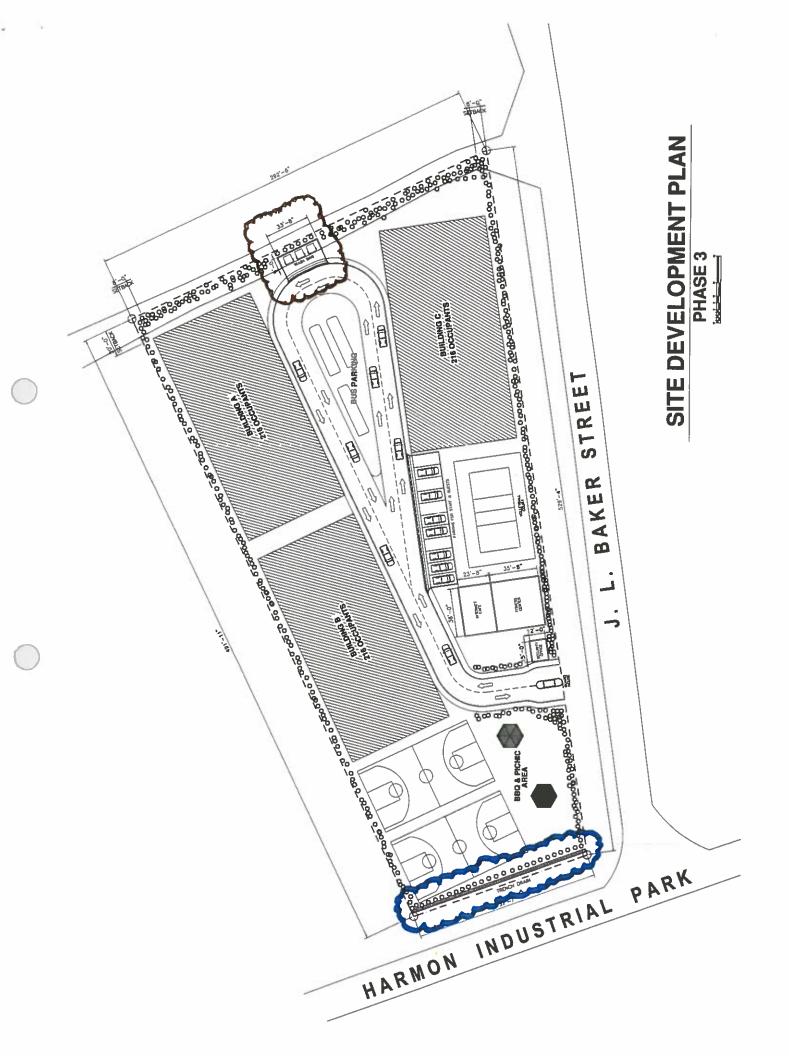
Continuous water usage for 24 consecutive hours registered on water meter this month. Extended private plumbing for leaks.

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Vant to know more about your GWA water bill? Log onto our website and click on My Water Self Service Web Portal link 🦲. Here you c access constitution and hilling information 24/7. Dealster tished your 10 digit @IA/A account number







LOUISE C. RIVERA CMapor KENNETH C. SANTOS CFLOCMapor

Office of the Mayor

Municipality of Camuning-Cumon and Acarmon #120 Tun Jesus Crisostomo St. Tamuning, Guam 96913 P.O. Box 10513 Tamuning, Guam 96931 Telephone No.: (671) 646-5211/8646 Facsimile No.: (671) 646-5210 Email: teamtatuha2013@gmail.com



February 06, 2017

Mr. John Z. Arroyo, Chairman Guam Land Use Commission Department of Land Management Government of Guam P.O. Box 2950 Hagatna, Guam 96910 RECEIVED

tes 4 8 2017

Department of Land Management
Time 245 Int ve

Hafa Adai Chairman Arroyo and Commissioners,

On Wednesday, November 30, 2016, I attended the public hearing for a Conditional Use application by Fargo Pacific Inc. to develop "FPI Village", a temporary workers housing facility on Lot 5161-1-3 in Harmon Industrial Park. In attendance were several Municipal Planning Council members and several owners of neighboring lots. There were many questions and answers exchanged about the need for the project, as well as the project's capacity, amenities and phasing.

Then on December 15, 2016, at the regular monthly meeting of the Tamuning Municipal Planning Council we addressed the "FPI Village" application. The consensus of our Council is that they have no objection to the approval of this application, subject to conditions that may by imposed by the Guam Land Use Commission. We appreciate this opportunity to be involved in matters affecting the Tamuning, Tumon and Harmon areas. Should you have any questions, you may contact me at 480-4440.

Sincerely,

Louise C. Rivera

Mayor

(XXXXXXXXXX)

AN APPLICATION HAS BEEN FILED WITH THE GUAM LAND USE COMMISSION (GLUC) FOR A CONDITIONAL USE PERMIT: NO. 2011-09B

PROJECT NAME: FPI VILLAGE

APPLICANT/REPRESENTATIVE: FARGO PACIFIC INC. / DANIEL D. SWAVELY

PROJECT DESCRIPTION: TEMPORARY WORKERS HOUSING FACILITY

LOT, BLOCK, TRACT: LOT 5161-1-3 / TRACT 260

TAMUNING

Date: NOV 30, 2016 Time: 6:30m Place: TAM, SR, CIT. CTR.

Date:FEB 09, 2017 Time: 1:30, Place: DLM, ITC BLDG, 3fL

GLUC MEETING

PUBLIC HEARING:

MUNICIPALITY

AN APPLICATION HAS BEEN FILED WITH THE GUAM LAND USE COMMISSION (GLUC) FOR A CONDITIONAL USE PERMIT: NO. 2011-09B

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XXXXXXXX

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LOT, BLOCK, TRACT: LOT 5161-1-3 / TRACT 260

TAMUNING

MUNICIPALITY:

PUBLIC HEARING Date: NOV 30, 2016 Time: 6:30 PM Place: TAM. SR. CIT. CTR.

Date: FER 09, 2017 Time: 1:30, Place: DLM, ITC BLDG, 3FL

GLUC MEETING:

Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

> Mailing Address: P.O. Box 2950 Hagåtña, GU 96932

Website: http://dim.guam.gov

E-mail Address: dlmdir@land.guam.gov

Telephone: 671-649-LAND (5263)







(Government of Guam)

RAY TENORIO Lieutenant Governor

EDDIE BAZA CALVO

Governor



MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO Deputy Director

January 13, 2017

Memorandum

To: Guam Land Use Commission (GLUC) Members

From: Chairman, Application Review Committee (ARC)

Subject: Summary of Positions Submitted by ARC

Re: Application No. 2011-09B (Conditional Use)

Listed below is the compilation of Positions taken by the various ARC member agencies as submitted to Planning Division, Department of Land Management. The conditions as imposed by the ARC member agencies are listed when applicable.

DIPĂTTAMENTON MINANEHAN TĂNO' (Department of Land Management) GUBETNAMENTON GUĂHAN

DEPARTMENT OF LAND MANAGEMENT (DLM):

DLM recommends approval with conditions as follows:

- A. That the applicant, adhere to the ARC conditions and requirements as stipulated on their official Position Statement; and,
- B. That this initial approval shall be for Twenty Four (24) Months and therefore shall be renewed annually (Per Section 2(4)(A) of Public Law 31-72); and,
- C. That there shall be no changes to the approved Conditional Use Permit unless subjected before the ARC review and GLUC approval; and,
- D. That when actual operations begin and as new and improved procedures and measures are implemented that these amendments must be incorporated and made a part of the Workforce Housing Facility Rules and Regulations document; and a copy be provided to Planning Division, Department of Land Management.

GUAM ECONOMIC DEVELOPMENT & COMMERCE AUTHORITY (GEDCA): GEDCA has no objections.

Memo to GLUC Members Ref: ARC Position Statements - Application No. 2011-09B January 13, 2017 Page 2 of 8

GUAM POWER AUTHORITY (GPA):

GPA has reviewed the application and submits the following position statement:

- A. Comments and Recommendations Concerning GPA requirements:
 - 1. GPA has no objection, however customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
 - a. Coordinate overhead/underground power requirements with GPA Engineering for new structures;
 - b. Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electric Code;
 - c. Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements;
 - d. Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection;
 - e. Provide scheduling and magnitude of project power demand requirements for new loads;
 - f. All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials;
 - 2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations;
 - 3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities;
 - 4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades
- B. General Comments:

GPA has no objection to the request subject to the conditions cited above.

BUREAU OF STATISTICS AND PLANS (BSP):

The Bureau has completed its review of the subject application and provides the following comments and recommendations.

Land Use. The North and Central Guam Land Use Plan (NCGLUP) is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified as an "Industrial Zone" designation in the Future Land Use Map of the NCGLUP, as stated in Policy LU-1 (g) Industrial:

Memo to GLUC Members
Ref: ARC Position Statements - Application No. 2011-09B
January 13, 2017
Page 3 of 8

'Industrial lands are those lands designated for a variety of industrial uses and agricultural, commercial, and non-residential uses compatible with industrial uses. Typical uses include manufacturing and processing, wholesaling, large storage and transportation facilities, light industrial and industrial-commercial uses.

The industrial area also includes the Guam International Airport, which serves as the international transportation hub for both passenger and freight service....Residential development is limited to uses such as caretaker facilities and accessory dwelling units."

The Bureau finds that the proposed project is consistent with the NCGLUP's Future Land Use Map designations.

Aquifer Protection from Industrial Waste. The applicant's Harmon property is located above the Northern Guam Lens Aquifer (NGLA). The NGLA is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA as Guam's sole source aquifer. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply. The primary goal for protecting the aquifer is to safeguard human health and the environment by maintaining water quality for continued use.

The Bureau is concerned that industrial activities will have adverse effects to Guam's sole source aquifer. The applicant is advised to consult with the Guam Environmental Protection Agency (GEPA) to:

- 1. Implement practices for managing industrial waste to avoid potential contamination and ensure long term protection of the aquifer pursuant to the "Resource Conservation and Recovery Act of 1976". Practices may include the following, but are not limited to:
 - a. Keeping a spill kit close to where spills are likely and ensure all staff know how to use it;
 - b. Mopping the workshop floor rather than hosing;
 - c. Surrounding storage areas with containment berms to control leaks or spills and;
 - d. Employee training to manage waste and materials properly.
- Comply with an Aquifer Protection Review pursuant to the "Federal Safe Drinking Water Act," § 1424 and "Guam Safe Drinking Water Act," 10 GCA Chapter 53.

Memo to GLUC Members Ref: ARC Position Statements - Application No. 2011-09B January 13, 2017 Page 4 of 8

3. Coordinate with the Guam Waterworks Authority (GWA) for water resource conservation and ensure the NGLA is protected through compliance with the "Water Pollution Control Act," 10 GCA Chapter 47; "Water Resources Conservation Act," 22 GCA Chapter 5; 10 GCA Chapter 46, as amended by P.L. 17-97, and the Guam Water Resource Development & Operating Regulations.

Stormwater Management. Managing stormwater is a key element in the protection of Guam's vital water resource. Surface runoff carries pollutants into Guam waters causing siltation and increasing sediment loads, which impairs receiving waters.

The alteration of prevent water from filtering into the ground and greatly increases the runoff vegetated areas into buildings, driveways, parking lots, roads and other surfaces volume created during storms. Studies show that impervious surfaces directly correlate to increased runoff volumes as well as waterway velocities, erosion, and flooding.

Industrial sites are classified as stormwater hotspots which is defined in the CNMI Guam Stormwater Management Manual as "a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxins than are found in typical stormwater runoff, based on monitoring studies." As industrial activities produce high concentrations of pollutants, the Bureau is concerned that industrial activities generated on the property may severely impair water quality of Guam's sole source aquifer. If best management practices are not in place before, during, and after construction to control runoff from the site, this activity can adversely affect Guam's drinking water source and surrounding neighbors. The stormwater manual further states that:

- 1. "...stormwater runoff from hotspots cannot be allowed to infiltrate into groundwater without prior water quality treatment."
- 2. "...a greater level of stormwater treatment is needed at hotspot sites to prevent pollutant wash off after construction. This will involve preparing and implementing a stormwater pollution prevention plan (SWPPP) that involves a series of operational practices at the site that reduce the generation of pollutants from a site or prevent contact of rainfall with the pollutants."

The Bureau recommends Fargo Pacific Inc. to consult with Guam EPA in preparing and submitting a SWPPP and employing best management practices to control runoff and hazardous waste.

Memo to GLUC Members
Ref: ARC Position Statements - Application No. 2011-09B
January 13, 2017
Page 5 of 8

Erosion Control. Controlling erosion and sediment flow from construction sites are a priority with regard to stormwater impacts to receiving water bodies within the project site, which includes the NGLA. The Bureau recommends that Fargo Pacific Inc. prevent adverse impacts from construction site runoff by employing best management practices. These practices include the following, but are not limited to:

- 1. Installing perimeter sediment controls to retain or filter concentrated runoff from disturbed areas to trap or retain sediment before it leaves the construction site.
- 2. Where feasible, schedule construction during dry season.
- 3. Stabilize construction entrances to reduce the tracking of sediment/mud from the construction site onto paved roads and parking lots.

Additional methods are listed in the CNMI Guam Stormwater Management Manual and the Guam Erosion and Sediment Control Field Guide; and can be obtained from the Bureau's website www.bsp3.guam.gov under Guam Coastal Management Program.

Low Impact Development (LID) Practices. The project site also lies within the Fonte River-Frontal Hagatfia Bay Watershed. This area has seen an increase in impervious surfaces throughout the years. In between the years 2005 and 2011, the impervious surface area increased by more than five percent according to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP). As surface area increases so does the risk of flooding and degradation of water quality. The Bureau is concerned that additional impervious surfaces may exacerbate flooding in the area and surrounding neighbors if practices are not in place to manage runoff on the property.

The LID approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features while minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product.

Considering the growing concerns of flooding due to increased impervious surface, the applicant should be required to implement LID practices such as permeable parking and walkways, grassed swales, island bio-retentions, green roofs, and/or rain gardens into the landscape as a means to reduce runoff and control erosion from their property. An electronic file of the Island Stormwater Practice Design Specifications is available on the Bureau's website at www.bsp3.guam.gov under the Guam Coastal Management Program.

Memo to GLUC Members Ref: ARC Position Statements - Application No. 2011-09B January 13, 2017 Page 6 of 8

In conclusion, the Bureau finds that industrial activities from the proposed project can adversely affect Guam's sole source aquifer and surrounding neighbors if best management practices are not in place to manage stormwater runoff and industrial waste. At the same time, we also find that the proposed activity is consistent with the North and Central Guam Land Use Plan.

As government officials, it is our primary responsibility to ensure that the construction and operations of this proposed endeavor are in a manner designed to protect public health, safety, and to promote the public welfare and convenience.

We also encourage the applicant to protect Guam's natural resources and to ensure they are used in a sustainable manner. Si Yu'os Ma'ase'.

DEPARTMENT OF PARKS AND RECREATION (DPR):

DPR reviewed the subject application by Daniel Swavely, Consulting Services, Inc. for applicant Fargo Pacific, Inc. for Conditional Use on Lot 5161-1-3 for Temporary Workers Housing Facility and have no objection. However, other future developments or use may require the applicant to go through the DPW permitting process for proper reviews by the various agencies, including the Department of Parks and Recreation.

DEPARTMENT OF PUBLIC WORKS (DPW):

The Department of Public Works (DPW) has completed its review of the subject application and has no objection to the requests provided the following conditions be in place:

- must install an emergency alarm system and provide a fire extinguisher in the hallway area of every floor;
- must incorporate the parking layout a details of parking stalls (compact, standard, and accessible stalls must meet the American Standard Disability Act in the site development plan; and
- if the owner chooses to use solid waste disposal or any private services, the location of the trash bin container should be situated in an area that will not hinder the public rights of way.

DPW recommends approval subject to the comments reviewed by the Application Review Committee (ARC) with conditions that building permit application must have a complete set of design drawings to incorporate all the necessary engineering disciplines needed that must be in conformance with the latest building code edition including the applicable rules, regulations and ADA requirements.

Memo to GLUC Members
Ref: ARC Position Statements - Application No. 2011-09B
January 13, 2017
Page 7 of 8

GUAM WATERWORKS AUTHORITY (GWA):

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a conditional use permit for a temporary workers housing facility in Harmon Industrial Park.

This memorandum shall serve as GWA's position statement to the above conditional use application related to availability of water and sewer infrastructures to serve the above subject lot. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements.

Any extension of the water and sewer systems and/or capacity upgrades required to serve property shall be subject to the rules and regulations of GWA. Any required extension to the existing facilities to serve the subject properties shall be at expense of the applicant.

Given the information provided in the application and field observations, the following comments explain GWA's position to support approval of this conditional use application:

1. Future development must be covered under a Department of Public Works (DPW) construction permit. Plans and specifications must be submitted for GWA review and approval prior to construction. Submittals shall include water and sewer design calculations and complete drawings and specifications. Design calculations shall include water demand calculations and wastewater production calculations for the proposed development. The applicant must confirm the sewage load calculations and the peaking factor.

2. The water calculations identify a contributing population of 640 people and the application identifies a maximum of 648 people. The applicant must confirm the maximum number of people.

3. Drawings shall delineate the water and wastewater service point of connection and provide specific connection details. GWA requires coordination with the GWA Engineering Department in advance of the permitting process to determine if available water and sewer system capacity can accommodate future development, and if sewage pretreatment is required. Any offsite utility improvements necessary to support the proposed development shall be at the expense of the applicant. GWA's approval of the construction permit application will be contingent upon the applicant's agreement to construct the necessary offsite utility improvements. GWA's approval of the occupancy permit application will be contingent upon the completion of the offsite improvements.

4. Finalized property maps identifying public rights of way or easements must be submitted to GWA.

Memo to GLUC Members Ref: ARC Position Statements - Application No. 2011-09B January 13, 2017 Page 8 of 8

- 5. Public water and sewer infrastructure facilities installed by the developer must meet GWA standards including construction on public rights of way or easements and inspection by GWA.
- 6. The applicant's construction plans shall include the proposed meter size(s) and identify water meters in the public right of way or easement.
- 7. New development is subject to water and/or sewer system development charges (SDC).
- 8. Backflow prevention devices are required for non-residential activities.
- 9. A grease trap is required if the development will include a food preparation facility.

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response. Please contact GWA Engineering Division regarding water and sewer system improvement design and construction standards and procedures.

DEPARTMENT OF AGRICULTURE (DoAg):

Has not submitted Position Statement as of Staff Report date.

GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):

Has not submitted Position Statement as of Staff Report date.

GUAM FIRE DEPARTMENT (GFD):

Has not submitted Position Statement as of Staff Report date.

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES (DPH&SS):

Has not submitted Position Statement as of Staff Report date.

GUAM PUBLIC SCHOOL SYSTEM (GPSS):

Has not submitted Position Statement as of Staff Report date.

DEPARTMENT OF CHAMORRO AFFAIRS (DoCA):

Has not submitted Position Statement as of Staff Report date.

Marvin Q. Aguilar Guam Chief Planner

Attachments: ARC Position statements

CC: Executive Secretary, GLUC



GUAM POWER AUTHORITY

ATURIDÅT ILEKTRESEDÅT GUAHAN P.O.BOX 2977 • AGANA. GUAM U.S.A. 96932-2977

M3 8 2



July 26, 2016

MEMORANDUM

To:

Chairman, Guam Land Use Commission

Executive Secretary, Guam Land Use Commission

From:

General Manager

Subject:

Lot 5161-1-3, Municipality of Tamuning, (Fargo Pacific Inc.); Conditional Use Application for Temporary Workers Housing Facility. Application No. 2011-09B

Guam Power Authority has reviewed the application described above and submits the following position statement:

A. Comments and Recommendations Concerning GPA requirements:

- GPA has no objection, however customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
 - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
 - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
 - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
 - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
 - Provide scheduling and magnitude of project power demand requirements for new loads.
 - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
- 2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
- 3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
- 4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

B. General Comments

GPA has no objection to the request subject to the conditions cited above.

JOHN M. BENAVENTE, P.E

ASG/arp

(g 2/2

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: Guam Power Authority Applicant: Fargo Pacific Inc. Location: Lot 5161-1-3, Tamuning Type of Application: Conditional Use GLUC/GSPC Application No. 2011-09B Brief Project Description: Temporary Workers Housing Facility. For the purposes of this Certification, GOVERNMENT SERVICES, FACILITIES, and INFRASTRUCTURE include, but are not limited to: power lines poles and facilities; water lines, pumps and facilities; sewer and liquid waste disposal; storm water disposal; solid waste disposal; telephone lines and facilities; schools; health facilities; police and fire fighting service and facilities; roads; traffic and street lights; parks and recreational activities. I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently AVAILABLE AND IN PLACE to support this project: Yes 🔯 No \square 2. If the answer to #1 above is YES, then: I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently ADEQUATE to support this project: Yes 🔲 No 🛛 3. If the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE currently in place are NOT AVAILABLE or they are AVAILABLE, BUT NOT ADEQUATE, itemize the services, facilities and infrastructure that are needed, the estimated cost thereof and whether funds are currently available and identified to develop such services, facilities and infrastructure: Services, Facilities and Cost of Upgrades Funds Date Available Funds Infrastructure Needed Available Identified Please see comments below I hereby certify that the foregoing is true and correct to the best of my knowledge.

Comments:

Based on a preliminary inspection of the site, the electrical facilities <u>may</u> require upgrading to meet the demand of the proposed project. A system impact assessment maybe required to determine the effect of this facility on GPA's existing power distribution system. The applicant will be responsible for the cost of any required system upgrade.



GUAM WATERWORKS AUTHORITY RECEIVED

Gloria B. Nelson Public Service Building 688 Route 15, Mangilao, Guam 96913

10 4 701

MEMORANDUM

September 23, 2016

M310/5

Destinent of Land Manager St. 1910

TO:

Director, Department of Land Management

FROM:

Thomas F. Cruz, P.E., Acting General Manager

SUBJECT:

Position Statement on Conditional Use Application No. 2011-

09B for Lot 5161-1-3, in an "M1" (Light Industrial) Zone, in

the Municipality of Tamuning.

APPLICANT(S):

Fargo Pacific Inc., c/o Daniel D. Swavely

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a conditional use permit for a temporary workers housing facility in Harmon Industrial Park.

This memorandum shall serve as GWA's position statement to the above conditional use application related to availability of water and sewer infrastructures to serve the above subject lot. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve property shall be subject to the rules and regulations of GWA. Any required extension to the existing facilities to serve the subject properties shall be at expense of the applicant.

Given the information provided in the application and field observations, the following comments explain GWA's position to support approval of this conditional use application:

 Future development must be covered under a Department of Public Works (DPW) construction permit. Plans and specifications must be submitted for GWA review and approval prior to construction. Submittals shall include water and sewer design calculations and complete drawings and specifications. Design calculations shall include water demand calculations and wastewater production calculations for the proposed Page 2
GWA Position Statement
ARC Application No. 2011-09B
Applicant(s): Fargo Pacific Inc., c/o Daniel D. Swavely

development. The applicant must confirm the sewage load calculations and the peaking factor.

- 2. The water calculations identify a contributing population of 640 people and the application identifies a maximum of 648 people. The applicant must confirm the maximum number of people.
- 3. Drawings shall delineate the water and wastewater service point of connection and provide specific connection details. GWA requires coordination with the GWA Engineering Department in advance of the permitting process to determine if available water and sewer system capacity can accommodate future development, and if sewage pretreatment is required. Any offsite utility improvements necessary to support the proposed development shall be at the expense of the applicant. GWA's approval of the construction permit application will be contingent upon the applicant's agreement to construct the necessary offsite utility improvements. GWA's approval of the occupancy permit application will be contingent upon the completion of the offsite improvements.
- 4. Finalized property maps identifying public rights of way or easements must be submitted to GWA.
- Public water and sewer infrastructure facilities installed by the developer must meet GWA standards including construction on public rights of way or easements and inspection by GWA.
- 6. The applicant's construction plans shall include the proposed meter size(s) and identify water meters in the public right of way or easement.
- 7. New development is subject to water and/or sewer system development charges (SDC).
- 8. Backflow prevention devices are required for non-residential activities.
- A grease trap is required if the development will include a food preparation facility.

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response. Please contact GWA Engineering Division regarding water and sewer system improvement design and construction standards and procedures. For additional information please contact Mauryn McDonald, P.E., Permits and New Area Development Supervisor, at 300-6054.

Eddie Baza Calvo Governor of Guam



William M. Castro

James T. McDonald Deputy Director

Ray Tenorio
Lieutenant Governor

Government of Guam
P.O. Box 2950 Hagåtña, Guam 96932
Tel: (671) 472-4201/3
Fax: (671) 477-1812

OCT 0 5 2016

MEMORANDUM

To:

Chairman, Guam Land Use Planning

Via:

Executive Secretary, Department of Land Management

From:

Director, Bureau of Statistics and Plans

Subject:

APPLICATION NO. 2011-09B; LOCATION: Lot No. 5161-1-3, Harmon Industrial Park, Tamuning; APPLICANT: Fargo Pacific, Inc.; PROPOSED USE: Conditional Use Application for Temporary Workers

Housing Facility

Håfa Adai! The applicant, Fargo Pacific, Inc. represented by Daniel D. Swavely, request for conditional use permit for a Temporary Workers Housing Facility named "FPI Village" on Lot 5161-1-3 in Harmon Industrial Park in the municipality of Tamuning. The proposed project comprises three 3-story buildings planned for three phases, accommodating up to 216 workers per phase. In addition to the standard dormitories, the facility will include living quarters, outdoor recreation facilities, a cafeteria, a small movie theater, a large game room, internet café, video gaming and a quiet zone in each of the three buildings.

The property is zoned M-1 Light Industrial and is currently used by Fargo Pacific, Inc. for warehousing and pre-construction activities. With an area of 107,639 square feet or 2.5 acres, the subject property can be accessed from Route 1 and Harmon Industrial Park Road. Surrounding land uses are primarily industrial and commercial activities.

The Bureau has completed its review of the subject application and provides the following comments and recommendations:

Land Use. The North and Central Guam Land Use Plan (NCGLUP) is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified as an "Industrial Zone" designation in the Future Land Use Map of the NCGLUP, as stated in Policy LU-1 (g) Industrial:

"Industrial lands are those lands designated for a variety of industrial uses and agricultural, commercial, and non-residential uses compatible with industrial uses. Typical uses include manufacturing and processing, wholesaling, large storage and

BSP Position Statement ARC 2011-09B Page 2 of 4

transportation facilities, light industrial and industrial-commercial uses. The industrial area also includes the Guam International Airport, which serves as the international transportation hub for both passenger and freight service....Residential development is limited to uses such as caretaker facilities and accessory dwelling units."

The Bureau finds that the proposed project is consistent with the NCGLUP's Future Land Use Map designations.

Aquifer Protection from Industrial Waste. The applicant's Harmon property is located above the Northern Guam Lens Aquifer (NGLA). The NGLA is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA as Guam's sole source aquifer. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply. The primary goal for protecting the aquifer is to safeguard human health and the environment by maintaining water quality for continued use.

The Bureau is concerned that industrial activities will have adverse effects to Guam's sole source aquifer. The applicant is advised to consult with the Guam Environmental Protection Agency (GEPA) to:

- 1. Implement practices for managing industrial waste to avoid potential contamination and ensure long term protection of the aquifer pursuant to the "Resource Conservation and Recovery Act of 1976". Practices may include the following, but are not limited to:
 - a. Keeping a spill kit close to where spills are likely and ensure all staff know how to use it;
 - b. Mopping the workshop floor rather than hosing;
 - c. Surrounding storage areas with containment berms to control leaks or spills and;
 - d. Employee training to manage waste and materials properly.
- 2. Comply with an Aquifer Protection Review pursuant to the "Federal Safe Drinking Water Act," § 1424 and "Guam Safe Drinking Water Act," 10 GCA Chapter 53.
- 3. Coordinate with the Guam Waterworks Authority (GWA) for water resource conservation and ensure the NGLA is protected through compliance with the "Water Pollution Control Act," 10 GCA Chapter 47; "Water Resources Conservation Act," 22 GCA Chapter 5; 10 GCA Chapter 46, as amended by P.L. 17-97, and the Guam Water Resource Development & Operating Regulations.

Stormwater Management. Managing stormwater is a key element in the protection of Guam's vital water resource. Surface runoff carries pollutants into Guam waters causing siltation and increasing sediment loads, which impairs receiving waters. The alteration of

BSP Position Statement ARC 2011-09B Page 3 of 4

vegetated areas into buildings, driveways, parking lots, roads and other surfaces prevent water from filtering into the ground and greatly increases the runoff volume created during storms. Studies show that impervious surfaces directly correlate to increased runoff volumes as well as waterway velocities, erosion, and flooding.

Industrial sites are classified as stormwater hotspots which is defined in the CNMI Guam Stormwater Management Manual as "a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxins than are found in typical stormwater runoff, based on monitoring studies." As industrial activities produce high concentrations of pollutants, the Bureau is concerned that industrial activities generated on the property may severely impair water quality of Guam's sole source aquifer. If best management practices are not in place before, during, and after construction to control runoff from the site, this activity can adversely affect Guam's drinking water source and surrounding neighbors. The stormwater manual further states that:

- 1. "...stormwater runoff from hotspots cannot be allowed to infiltrate into groundwater without prior water quality treatment."
- 2. "...a greater level of stormwater treatment is needed at hotspot sites to prevent pollutant wash off after construction. This will involve preparing and implementing a stormwater pollution prevention plan (SWPPP) that involves a series of operational practices at the site that reduce the generation of pollutants from a site or prevent contact of rainfall with the pollutants."

The Bureau recommends Fargo Pacific Inc. to consult with Guam EPA in preparing and submitting a SWPPP and employing best management practices to control runoff and hazardous waste.

Erosion Control. Controlling erosion and sediment flow from construction sites are a priority with regard to stormwater impacts to receiving water bodies within the project site, which includes the NGLA. The Bureau recommends that Fargo Pacific Inc. prevent adverse impacts from construction site runoff by employing best management practices. These practices include the following, but are not limited to:

- 1. Installing perimeter sediment controls to retain or filter concentrated runoff from disturbed areas to trap or retain sediment before it leaves the construction site.
- 2. Where feasible, schedule construction during dry season.
- 3. Stabilize construction entrances to reduce the tracking of sediment/mud from the construction site onto paved roads and parking lots.

Additional methods are listed in the CNMI Guam Stormwater Management Manual and the Guam Erosion and Sediment Control Field Guide; and can be obtained from the Bureau's website www.bsp3.guam.gov under Guam Coastal Management Program.

BSP Position Statement ARC 2011-09B Page 4 of 4

Low Impact Development (LID) Practices. The project site also lies within the Fonte River-Frontal Hagåtña Bay Watershed. This area has seen an increase in impervious surfaces throughout the years. In between the years 2005 and 2011, the impervious surface area increased by more than five percent according to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP). As surface area increases so does the risk of flooding and degradation of water quality. The Bureau is concerned that additional impervious surfaces may exacerbate flooding in the area and surrounding neighbors if practices are not in place to manage runoff on the property.

The LID approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features while minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product.

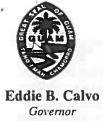
Considering the growing concerns of flooding due to increased impervious surface, the applicant should be required to implement LID practices such as permeable parking and walkways, grassed swales, island bio-retentions, green roofs, and/or rain gardens into the landscape as a means to reduce runoff and control erosion from their property. An electronic file of the Island Stormwater Practice Design Specifications is available on the Bureau's website at www.bsp3.guam.gov under the Guam Coastal Management Program.

In conclusion, the Bureau finds that industrial activities from the proposed project can adversely affect Guam's sole source aquifer and surrounding neighbors if best management practices are not in place to manage stormwater runoff and industrial waste. At the same time, we also find that the proposed activity is consistent with the North and Central Guam Land Use Plan.

As government officials, it is our primary responsibility to ensure that the construction and operations of this proposed endeavor are in a manner designed to protect public health, safety, and to promote the public welfare and convenience. We also encourage the applicant to protect Guam's natural resources and to ensure they are used in a sustainable manner. Si Yu'os Ma'ase'.

WILLIAM M. CASTRO

CC: GEPA
DPW
GWA
DPR
GPA



Department of Parks and Recreation Government of Guam

490 Chalan Palasyo, Agana Heights, Guam 96910 Director's Office: (671) 475-6296/7; Fax (671) 477-0997 Parks Division: (671) 475-6288/9 Guam Historic Resources Division: (671) 475-6294/5

Facsimile: (671) 477-2822



Robert S. Lizama
Director

William N. Reyes

Deputy Director

Lt. Governor
In reply refer to:
RC 2011-7736

Ray Tenorio

October 7, 2016

Memorandum

To:

Director, Department of Land Management

From:

Director, Department of Parks and Recreation

Subject:

Application No. 2011-09B Temporary Workers Housing Facility at Lot 5161-1-3,

Harmon Industrial Park Conditional Use Application for FPI, Harmon

We reviewed the subject application by Daniel Swavely Consulting Services, Inc. for applicant Fargo Pacific, Inc., for conditional use of Lot 5161-1-3 for Temporary Workers Housing Facility, and have no objection.

However, other future developments or use may require the applicant to go through the DPW permitting process for proper reviews by the various agencies, including the Department of Parks and Recreation.

Should you have any questions, please do not hesitate to call us.

Sincerely,

Robert S. Lizama

Director

Og nolí



DUBLIC WORKS
DIPATTAMENTON CHECKO PUPBLEKO
GLENN LEON GUERRERO
Director
FELIX C. BENAVENTE

Deputy Director

August 12, 2016

TO:

Director, Department of Land Management

FROM:

Director

SUBJECT:

Position Statement No. 2011-09B

Conditional Land Use for Temporary Workforce Housing, Zone I

Lot No. 5161-1-3, Harmon Industrial Park

Buenas yan Hafa Adai!

The applicant, Fargo Pacific Inc., (FPI) is requesting the approval of the above subject position statement for the conditional use for a temporary workforce housing facility on Lot 5161-1-3 located in Harmon Industrial Park. The property is zoned M-1 and used by Fargo Pacific Inc., is currently used as warehouse along Harmon Industrial Park. The Lot contains an approximate area of 21/2 acres (10,000 sq. meters) or 107,639 square feet. The FPI village will be developed in three phases as needed basis and accommodate 216 residents in each phase. In addition a standard dormitories, living quarters, an outdoor recreational facilities for residents which include a cafeteria a small theater, a game room, a library, internet café, a video game and a quite zone area.

The Department of Public Works (DPW) has completed its review of the subject application and has no objection to the requests provided the following conditions be in place:

- must install an emergency alarm system and provide a fire extinguisher in the hallway area of every floor;
- must incorporate the parking layout a details of parking stalls (compact, standard, and accessible stalls must meet the American Standard Disability Act in the site development plan; and
- if the owner chooses to use solid waste disposal or any private services, the location of the trash bin container should be situated in an area that will not hinder the public rights of way.

DPW recommends approval subject to the comments reviewed by the Application Review Committee (ARC) with conditions that building permit application must have a complete set of design drawings to incorporate all the necessary engineering disciplines needed that must be in conformance with the latest building code edition including the applicable rules, regulations and ADA requirements.

Should you have any questions, please contact Mr. John F. Calanayan, Engineer in Charge or Maryrose M. Wilson, Engineer III in the Division of Capital Improvement Projects (CIP) at 646-3189/3224.

Dangkulu na Si Yu'os Ma'ase!

GLENN LEON GUERRERO

ATTACHMENT C



DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÄHAN (Government of Guam)



Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

EDDIE BAZA CALVO Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

February 3, 2017

To: Chairman, Guam Land Use Commission

From: Guam Chief Planner

Re: Staff Report – Application No. 2016-03. The Applicant Vantage, LLC requests a Zone Variance for Sign to erect two (2) 10' x 20' electronic LED signs on the front and side walls of a commercial building, on Lot 5147-2B-1-R1, in a "C" (Commercial) zone, in the Municipality of Tamuning, Application No. 2016-03; GLUC Hearing of February 9, 2017.

1. Purpose:

A. Application Summary: The Applicant, Vantage, LLC proposed electronic LED signs to be mounted on the second floor and level with the roof line; one (1) on the front (facing Marine Corps Drive) and the second (2) on the side wall facing Mobil Service Station. Each sign area coverage will be 200-square feet; two signs with a total sign face area of 400 square feet in a "C" (Commercial) zone, in the Municipality of Tamuning.

NOTE: The application was amended for the location of the two (2) signs on the building from rooftop to the front and side walls at roof line level of the second-floor building (24 feet is the height of the building, see photos)

B. Legal Authority: 21 GCA (Real Property), Chapter 61 of the Zoning Law, Sections 61616 to 61623 and 61541, Part 5 (Sign Regulations and applicable subsections).

2. Facts:

- A. Location: The property is located between Acura/Honda Motors and Airport Mobil Service Station and across the Triple J Used Car Lot and fronting Marine Corps Drive and the traffic light intersection of Chalan Pasaheru (Airport Access Road) in Tamuning (See vicinity map ATTACHMENT MAP).
- B. Lot Area: Gross lot area is 17,448 square feet or 1,621 square meters. Only the northern portion of the building (front and side walls) will be used to mount the signs). Please see attached photos.
- C. Present Zoning: "C" (Commercial) Zone.
- D. Field Description: The commercial building is front Marine Corps Drive or Route 1.

Mailing Address: P.O. Box 2950 Hagatña, GU 96932

Website: http://dlm.guam.gov

E-mail Address: dlmdir@land.guam.gov

Telephone: 671-649-LAND (5263)

Facsimile: 671-649-5383



Staff Report – Application No. 2016-03, Zone Variance Lot 5147-2B-1-R1, Municipality of Tamuning GLUC Hearing – February 9, 2017 Page 2 of 7

E. Surrounding Land Uses: The immediate area consists of predominantly office/commercial buildings, condominiums, apartments and sporadic single family dwellings with 750 to 1,000 feet radius.

F. Master Plan: Commercial

G. Community Design Plan: Commercial

H. Previous Commission Action: None

3. Application Chronological Facts:

a) Date Application Accepted: November 4, 2015

b) Date of ARC: November 19, 2015

c) Date of Public Hearing: December 7, 2016

4. Public Hearing Results: (See Attachment 1)

- 5. <u>DISCUSSION/STAFF ANALYSIS</u>: Pursuant to Title 21 Guam Code Annotated, Chapter 61, § 61617 under Variance Requirements, no variance shall be granted by the Commission unless it finds:
 - a. That the strict application of the provisions of this Chapter would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the law;
 - b. That there are exceptional circumstances or conditions applicable to the property involved or to the intended use thereof that do not apply generally to other property in the same zone;
 - c. That the grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located;
 - d. That the grant of such variance will not be contrary to the objectives of any part of the Master Plan adopted by the Commission or Legislature; and
 - e. That, as to variances from the restrictions of § 61504 of this Chapter, the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach area upon which the building is to be constructed, and that such building will not interfere with or adversely affect the surrounding property owners' or the public's right to an untrammeled use of the beach and its natural beauty.

Staff Report - Application No. 2016-03, Zone Variance Lot 5147-2B-1-R1, Municipality of Tamuning GLUC Hearing - February 9, 2017 Page 3 of 7

The applicant provides the following:

a. With respect to the strict application of the provisions of this Chapter would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the law, the applicant provides: The current sign Law (Guam's Zoning Law) is almost 50 years old. When the laws were initiated it did not take into consideration to reflect and support modern LED technology for our ever-growing island economy. The sign law must be amended, modified, updated of changing technologies with new marketing techniques, promotions and support advertising media to the general public, local businesses, international businesses; and further, this will help improve our visit industry as well. The Guam Land Use Commission (GLUC) is the only reviewing body and authority on land use applications such as variances with reasonable justification of the project, will grant adjustments, impose conditions on the application for approval as presented on a case by case basis to be complied by the applicant.

The proposed signs are modern electronic video/LED monitor devices showing constant alternating sequence of advertisements that will exhibit tasteful images promoting its clientele's company, quality products, avail for public announcements, weather updates, road conditions, Government of Guam/Homeland Security messages, amber alerts, municipal announcements, etc., to be in operation 24-hours, 7-days a week at the proposed Tamuning site. The signs are engineered of high standards, secured on the building to withstand typhoon force winds of 170 miles per hour or greater.

Advertisement on Guam is on high tempo and very competitive, businesses will spend more money to promote their business, services, products, etc., other companies are more aggressive, competitive as to signage in order cater to large and small businesses or private groups. Advertisement will benefit businesses around the island, as we know there are many electronic signs in front of businesses, shopping centers and malls that are up and along Marine Corps Drive and other thoroughfares in Tumon, that have been installed, signs that are (Land Commission approved) to advertise brand products, as well as welcome visitors, tourists and guests to shop. Information and excellent advertisement and media coverage is key to benefiting the masses or the general public and must be instantaneous or real time. The building mounted electronic/LED signs on [this] commercial building is ideal and safe and does not impact or impede day to day traffic or obstruct line of site view planes. Therefore, to disallow the proposed signs for a sign and face area variance will result in practical difficulty and unnecessary hardship inconsistent with the general purpose, spirit and intent of the law.

Staff Report – Application No. **2016-03, Zone Variance**Lot 5147-2B-1-R1, Municipality of Tamuning
GLUC Hearing – February 9, 2017
Page 4 of 7

b. With respect to having are exceptional circumstances or conditions applicable to the property involved or to the intended use thereof that do not apply generally to other property in the same zone, the applicant provides: The location of the sign on the commercial building is along Route No. 1 (Marine Corps Drive). There are already (Land Use Commission) approved electronic and billboard type signs along Marine Corps Drive from East Agana to Dededo, as well as Tumon hotel row. There are also existing unapproved signs that do not meet the current regulatory requirement for commercial signs uses, with variety of entertainment and eating establishments marketed throughout and as well as many

neon signs, etc., however, the proposed electronic signage intends to compliment commercial advertisement in the Tamuning area, and will show tasteful images with computer controlled lighting that will be programed to provide soft light with high-resolution graphics and more effective as these advertising appear on electronic LED signs that will not be disruptive to the eye or motorists, or daily traffic concerns and safety of motorists and pedestrians.

The main purpose of these signs is to provide advertising, shopping opportunities for quality products from individual businesses, stores and eating establishments to visitors and residents alike. These proposed signs will beat an exceptional location that faces north and northeast, which will not be obstructing line of site view planes from any direction. The electronic signs will help show its high-resolution graphic on a distance because of its soft light controls with excellent advertisements. This requested variance allows for reasonable expansion of the existing allowances (of the existing Zoning Law) as they are not as large as far as area/face coverage as those existing electronic signs long the major thoroughfares along Route No.1 and in the Tumon hotel row areas. Therefore, there are exceptional circumstances on the proposed site project and the use does not apply to the other property in the same zone.

c. With respect to the variance not being materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located, the applicant provides: The electronic video signs/LED signs mounted on the front and side walls of the building are designed to withstand typhoon strength winds and will be mounted and secured on concrete surface, and will be secured during the periods of high winds. All precautions have been taken to ensure that the signs does not adversely impact their neighboring properties and no potential environmental problems from the proposed signs location. The property and site is within a very high traffic commercial area which is Marine Corps Drive and Chalan Pasaheru (Airport Access Road) Intersection, making it ideal for placement of an electronic LED rooftop sign. The businesses on Guam will be afforded additional advertising space for paid space and ads, and will also avail public service announcements and government notices, etc.. More tax revenues, power utility revenue and new employment will be created for

Staff Report - Application No. 2016-03, Zone Variance Lot 5147-2B-1-R1, Municipality of Tamuning GLUC Hearing - February 9, 2017 Page 5 of 7

the proposed sign project. Therefore, the proposed signage and demand on infrastructure is not expected to burden the existing customers in the neighborhood and will not be materially detrimental to the public welfare or injurious to the property in the zone or neighborhood in which is located.

- d. With respect to the grant of such variance will not be contrary to the objectives of any part of the Master Plan adopted by the Commission or Legislature, the applicant provides: The Guam Master Plan as showing the Zoning Map allows the location of commercial uses in this area of Tamuning. This request is in reasonable accordance and will not be contrary to the objectives of any part of the plan of Tamuning area. Therefore, the granting of the requested variance will not be contrary to the objectives of any part of the Master Plan, with adherence to the zoning law, building code and building permitting processes.
- e. With respect to the proposed structure will substantially enhance the recreational, aesthetic or commercial value of the beach area upon which the structure is to be constructed, and that such building will not interfere with or adversely affect the surrounding property owners' or the public's right to an untrammeled use of the beach and its natural beauty, the applicant provides: This section is not applicable as it is not within a shoreline property. In conclusion, the application is complete in its form and context and justified for further review and action by the Commission.

As noted in the past, we maintain the position that for the most part requests such as this may perhaps be considered under a use variance, as opposed to a request vetted through the Sign Regulations (Title21GCA, Sub-Article 5). All requests for free-standing LED signs have been vetted through this authority for obvious reasons since one may immediately consider such structures as signs; having the intent to advertise products and services. However, this inherent intent serves as the only commonality between signs as identified in the law and the latter. The fact remains that billboards, either static or LED-moving, generally serves the purpose of advertising products and services not associated with activities contained in a building or premises, which more than suggests that a conflict exists with the general intent of the law. This is evident in the requirement for free-standing commercial signs that are restricted not only in size and height, but are further restricted to advertisement of products and services provided within the premises where the sign is to be located. Other off-site signs erected for directional purposes, to promote an event, or otherwise, are basically non-compliant.

Consequently, the challenge in assessing such a request may not necessarily rest in vetting the size, height, or other any other attribute to warrant consideration from deviating from regulatory requirements as noted, but for the mere fact that such structures are not clearly identified in the Zoning Law itself. And in this respect, perhaps we may agree with the idea that the law may need to be updated to either outright restrict the use of advertisement products that go beyond existing requirement or address its applicability and use as a nuance to the zoning law through appropriate authority of due process which we believe rests within the authority of the GLUC.

Staff Report - Application No. 2016-03, Zone Variance Lot 5147-2B-1-R1, Municipality of Tamuning GLUC Hearing – February 9, 2017 Page 6 of 7

Thus, having the power to implement caveats and restrictions beyond the norm to guard against potential adverse impacts that may otherwise compromise general provisions established on behalf of zoning and land use. And therefore, what remains is perhaps the need for the Commission to consider vetting this proposal against the general provisions of protecting the health, safety, convenience, and general welfare of the public. This is important since the fact remains the Commission has set precedence having assessed and approved similar proposals with these caveats in mind. Furthermore and notwithstanding the latter, the applicant has submitted this request to the GLUC as means to secure government reliance with the GLUC as the appropriate authority for consideration. With this we remain confidence to provide the following recommendation.

A. RECOMMENDATION: Planning Recommends approval with the following conditions as follows:

- That the Applicant comply with all Commission and ARC conditions and all permitting requirements;
- No occupancy permit shall be released to the applicant until:

A perimeter fence is installed to surround the billboard structure for safety and security purpose;

A landscaping plan is submitted to and approved by the Guam Chief Planner. Such plan must include a periodic maintenance plan; and

- A typhoon mitigation plan is submitted to and approved by the Guam Chief Planner.
- 3. In the absence of comments from the Tamuning Municipal Planning Council as of the date this report was officially submitted to the GLUC, we recommend that:

Within 45 days from approval of this request, to which shall be noted as its GLUC hearing date, the applicant shall secure a letter from the Tamuning Municipal Planning Council. Such letter must contain the MPC's concurrence with actions taken by the GLUC. That such concurrence shall be an expression of the MPC's viewpoint through resolution.

In the event the MPC provides a dissenting opinion or viewpoint, the applicant must submit such findings to the Guam Chief Planner for the purpose of assessing such opinion and for the Guam Chief Planner to report his findings and/or recommendations to the Commission for its review and consideration

Submit before the Commission a letter of agreement between Vantage LLC and the government agencies engaged in protecting and encouraging public safety and welfare. Such agreement shall include public notifications from agencies to include but not limited to GPD, GFD DPHSS, and Tamuning Mayor's Office. Notifications should include ambers alerts, traffic conditions, public events,

Staff Report – Application No. 2016-03, Zone Variance Lot 5147-2B-1-R1, Municipality of Tamuning GLUC Hearing – February 9, 2017 Page 7 of 7

weather reports/warnings, etc. Such notifications shall be prepared and advertised in the expense of Vantage, LLC. Such notifications shall run 1/3 of every hour during peak hours (7am to 9pm). Such report shall be submitted to the Guam Chief Planner no later than 60-working days from the date of recordation of the NOA. Such report shall be considered reportable item to the GLUC;

- d. Vantage, LLC shall be restricted from advertising products, services and industries engaged in practices that are generally considered immoral, depraved or degrading any associated society. This should include products, services and/or industry in promoting bad or unhealthy habits or are habit-forming;
- e. The applicants shall submit to the Commission a report in support of the requested action. Such report shall include report of the existing or non-existence of any adverse effect caused to traffic and surrounding community to include but not limited to an increase in traffic accidents and cause of visual blight as determined by a degradation of harmonious co-existence with neighboring and/or commercial facilities. Evidence dissuading from such impacts shall be supported by appropriate agencies such as GPD on traffic and DPW on matters concerning highways, as well as any other positive attributes shall be endorsed by the Municipal Planning Council of Tamuning; and
- f. That the Variance approval will be for a period of two (2) years and will expire from the date of recordation of the Notice of Action. At such time, the applicant or owner shall submit a request to the GLUC to continue operations. The GLUC, through the Guam Chief Planner, must be officially notified, in writing, of such request forty-five (45) days from the date of expiration of the 2-year approval and shall be accompanied by justification to continue based on the LED sign during its operation, the structure proved materially non-detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which it is located and not be contrary to the objectives of any part of the Master Plan adopted by the Commission or Legislature

Marvin Quitugua Aguilar Guam Chief Planner

Planner: Penmer Gulac

(Attachment 1)

Public Hearing Results:) Lot 5147-2B-1-R1, Municipality of Tamuning; GLUC # 2016-03

A public hearing was conducted by Planning Staff at the Tamuning Senior Center on December 7, 2016, at 6:00 P.M. Present were the applicant's representative, Mr. Tae Oh (Owner), Kiko Pangelinan (Operations Manager), and Mr. Harry Gutierrez (Consultant), Mayor Louise Rivera and a few MPC members and the general public in attendance, total of 16 persons were present.

The applicant's representative and owner presented the full extent of proposed project and the intentions of the proposed electronic (LED) signs, as it was first submitted to be located on the rooftop and now will be mounted on the northern front and side walls of the building . Mr. Oh (owner) explained the full details related to the functionality of the signage, ensuring that it will be functional to meet all safety standards, and building code requirements and not a traffic or driver/motorists distraction, that it will provide the general public access to commercial advertisement and further provide the public service/community announcement, such as amber alerts and other notices to the general public.

Mr. Kiko Pangelinan, operations manager stated that the proposed signage meet all the wind speed rating for typhoon winds and that it would not endanger the public. He further stated that there are control system for lighting and brightness and LED is a new way of advertisement..

Mr. Brown, from the MPC questioned that hardship is not justified ..and rather, other businesses want access to advertisement...sell business ads for others..signs are going up all over..some have no permits..

Mr.Oh., replied that advertisement projects, development and maintenance..upkeep of the building will make it more pleasing and be a good community partner, supporter of events in the village of Tamuning and the island community as a whole.

Bob Peron (MPC), stated that Mr. Oh has been a good community partner, he has cleaned up the lot across Kings restaurant, (old Marianas Trench)..etc., Mr. OH ..always supports the community and as a member of the Tamuning MPC, he supports the sign project.

Mr. Tony Charfauros, MPC, he supports the sign project.. other LED signs are too bright in the area.

Public Hearing Results:) Lot 5147-2B-1-R1, Municipality of Tamuning; GLUC # 2016-03, Page 2

<u>Cris Morato, business owner (Owner of TriVision signs)</u>...yes there are control..new technology systems for the lighting ...the brightness..of new LED signs..that are all over the country..

Bill Nauta (MPC), stated he commends Mt. OH for proactive in cleaning up Tamuning community, he and his family is respected in the community.. the sign will help businesses and boost our tourism..as you drive down from the airport road you can see the signs..it will enhance the building/site..he said he supports the project..

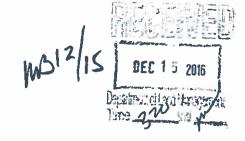
Mr. OH. as business owners, we are doing upgrades on the building to enhance it, as well as other properties in the area, and we will continue to support our Mayor and the community.

In summary, there were issues discussed on traffic, motorist distraction, safety, lighting...all were addressed by the owner, Mr. OH, with reasonable replies; there were no statement from the public that they were objecting to the placement of the proposed LED signs on the building/site.

Meeting Adjourned at 7:15 pm.

Penmer Gulac, Project Planner





HAND DELIVER

November 30, 2015

Mr. Lawrence S. Rivera, Chairman Guam Land Use Commission Department of Land Management PO Box 2950, Hagatna Guam 96932

RE: Letter to support Sign Face and Height Variance Application by Vantage, LLC on the commercial building on Lot 5147-28-1-R1

Hafa Adai Mr. Rivera and Commissioners.

South Pacific Petroleum Corporation has been operating 76/Circle K Convenience Store and Retail Fuel Stations on Guam for almost fifteen years. We operate a convenience store across Marine Corps Drive and approximately 300 feet to the north of the subject development.

We are in support of the Sign and Height variance for this development because we believe it produces no detriment to the adjacent developments, while offering commercial potential, and enhancing aesthetics and visual appeal to the area. The area across from and adjacent to the sign is an entirely commercial one, similar in nature to areas where other sign developments have been undertaken. Guam continues to need media space opportunities similar to those this sign can and should offer.

In consideration of the above we support the sign variance and all its benefits for Guam. I request that this sign variance be approved by the Commission.

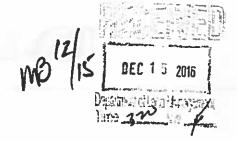
Sincerely,

Douglas R. Dean General Manager

South Pacific Petroleum Corporation

PEF GLUC # 2016-03





HAND DELIVER

Guam Land Use Commission

Department of Land Management
P.O. Box 2950, Hagatna Guam 96932

P. Gular (2/7/16)

RE: Letter of support for Sign Face and Height Variance Application on the Commercial building on Lot 5147-2B-R1 by applicant Vantage, LLC.

Hafa Adai Commissioners,

As President of Triple J Enterprises I would like to offer this letter of support for the Sign Variance at the Tsai Bldg. (Lot 5147-2B-1-R1). The proposed LED billboard will be located on the building of our direct neighbor next to our Tamuning dealership. As a neighbor, Mr. Tae Oh has proven to be of professional and respectable manner. His work is evident in his renovation of said commercial building. I am confident he will carry on the same quality of work in producing an LED billboard in a safe and appealing manner for the benefit of businesses and consumers alike.

Triple J is always looking for new ways to promote our goods and services to the people of Guam. We believe the proposed LED billboard will be a benefit for businesses and consumers by offering additional forms of advertisement.

Sincerely,

Jeff Jones
President

PEF 644 # 2016-03

The Korean Women's Association of Guam

P.O.Box 9252, Tamuning, Guam 96931

DEC 1 5 2016

31

Young Sook Hong President The Korean Women's Association of Guam P.O. Box 9252 Tamuning, Guam 96931

HAND DELIVER

Guam Land Use Commission
Department of Land Management
P.O. Box 2950, Hagatna Guam 96932

Hafa Adai Commissioners.

As President of the Korean Women's Association of Guam I would like to offer this letter of support for the Sign Variance at the Tsai Bldg. (Lot 5147-2B-1-R1). The owner of the building and President of Vantage, LLC Mr. Tae Oh is a well-known and reputable developer and educator in the Korean community. I have full faith and confidence that the LED sign will be well designed and built to code. Not only will the project offer another medium to advertise services and products, but it will also improve the aesthetics appeal of the surrounding intersection. The following are a list of reasons I give my support for the Vantage, LLC sign project:

- The village of Tamuning is becoming the new center of business activity on Guam. With
 the implementation of a new LED sign it expands advertising options for businesses as well
 as public service announcements for Not For Profit organizations and Government
 Agencies.
- 2. The Korean Women's Association of Guam promotes new businesses including increased job opportunities and tax revenue for the Government of Guam.
- 3. The proposed LED signs will increase the aesthetic appeal of the intersection and its surrounding commercial neighbors.

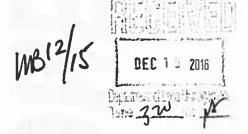
I would like to thank the commissioners for your time and consideration on this matter. I hope that my support of the Sign Variance will help to garner approval of the variance as requested by Vantage, LLC.

Sincerely,

Young Sook Hong

NOT: CLUC# 2016-03





January 11, 2016

HAND DELIVER

Guam Land Use Commission
Department of Land Management
P.O. Box 2950
Hagatna Guam 96932

Hafa Adai Commissioners,

Parlay 12/2/164 Lond Plans Down

I write you today in support of the proposed LED Billboard Sign Variance for the Tsai Building (Lot 5147-2B-1-R1) within the village of Tamuning. As a fellow business owner in the area I am always excited to hear of new and innovative forms of advertising which would be of a benefit to all residents of the area both commercial and residential. Mr. Oh has shown himself to be a respectable member of the community as President of Vantage, LLC and the owner of the Tsai Building. I have confidence that the proposed project will not only be aesthetically pleasing but will bring additional commercial appeal to the intersection as well as added attention to the surrounding retailers.

I would like to thank the commissioners for your time and consideration in your review of the proposed LED Billboard. I hope that my support of the Sign Variance will help to sway your determination towards an approval of the variance being presented by Vantage, LLC.

Sincerely,

Kim Anderson Young

President



Day Ma

(REF: GLUC 2016-03) PUBLIC NOTICE

AN APPLICATION HAS BEEN FILED WITH THE GUAM LAND USE COMMISSION (GLUC) FOR A

APPLICATION DESCRIPTION: TO ERECT TWO (2) ELECTRONIC (LED) SIGNS (10FT X20FT) EACH AT 200 SQUARE FEET EACH ON THE FRONT AND SIDE WALLS OF A COMMERCIAL BUILDING; TOTAL SIGN VARIANCE FACE OF 400 SQUARE FEET. **ZONE VARIANCE**

OWNER: VANTAGE, LLC & TAE S. OH

DEVELOPER: VANTAGE & TAE S. OH C/O HARRY D. GUTIERREZ (CONSULTANT)

LOT, BLOCK, TRACT, MUNICIPALITY: LOT 5147-2B-1-R1, TAMUNING

PROPOSED VARIANCE: TO ERECT TWO (2) ELECTRONIC (LED) SIGNS (10FT X 20FT) EACH, AT 200 SQUARE FEET EACH; TOTAL SIC

TIME

VARIANCE FACE AREA OF 400 SQUARE FEET

PUBLIC HEARING:

DEC. 7, 2016

FEB. 9.2017

GLUC MEETING:

1:30 PM

PLACE

TAMUNING SENIOR CITIZEN CENTER

ITC BLDG, 3RF FLOOR, DLM CONFERENCE TAMUNING, GUAM



LOUISE C. RIVERA
Mayor
KENNETH C. SANTOS
Vice-Mayor

Office of the Mayor

Municipality of Tamuning-Tumon and Harmon

#120 Tun Jesus Crisostomo St. Tamuning, Guam 96913 P.O. Box 10513 Tamuning, Guam 96931

Telephone No.: (671) 646-5211/8646 Facsimile No.: (671) 646-5210

Email: teamtatuha2013@gmail.com



ORIGINAL

January 16, 2017

Mr. Michael Borja Executive Secretary Guam Land Use Commission Department of Land Management Tamuning, Guam 96913

Hafa Adai Mr. Borja,

RECEIVE

Opportunities and Management

Department of Land Management Time 13 int

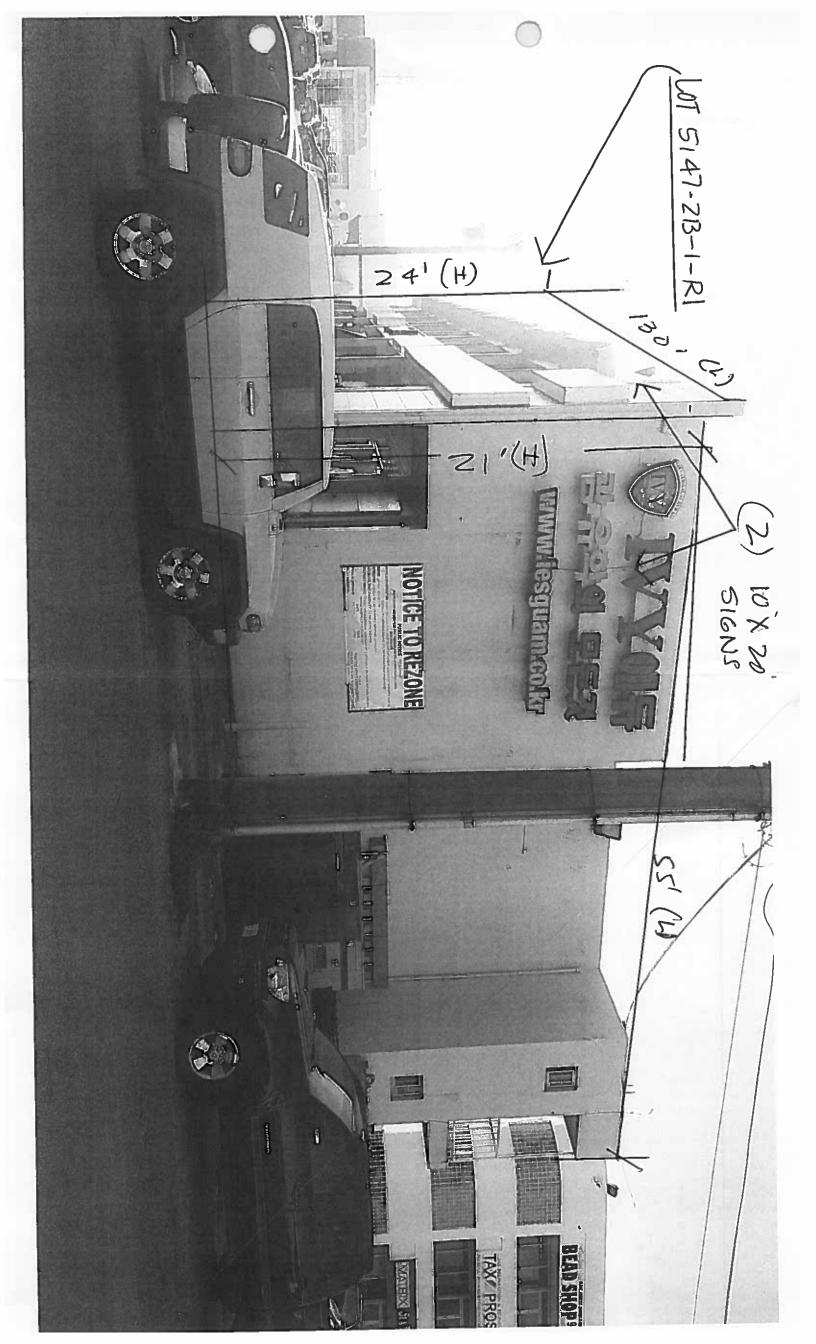
It is with utmost pleasure that I write this letter of support for the application of Tae Oh and Vantage, LLC, requesting for a Zone Variance for Sign Face Area. to erect 2-Wall mounted Electronic LED Signs on front andd side walls on Lot 5147-2B-1-R1, in the Municipality of Tamuning, in a Commercial zone, under Application Amendment 2016-03.

The signs will provide additional media for public awareness campaigns, public alerts as well as avenue for local businesses to assist in promoting their products and services. By having these LED signs. It will also continue to help enhance the surroundings as well as the quality of the advertisement which will provide an attractive advertising option, in a time where technology is the key.

On Wednesday, December 07, 2016, a Public Hearing was held at the Tamuning Senior Center. Surrounding neighbors and Municipal Council Members expressed concern about the brightness of the signs. At our regular monthly meeting on December 15, 2016 our Municipal Planning Council voted in favor of approving the application. These signs will certainly benefit our community and businesses throughout the island. Should you have any questions, you may contact me at 646-5211/8646.

Sincerek

LOUISE C. RIVERA, Mayor



Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

> Mailing Address: P.O. Box 2950 Hagàtña, GU 96932

Website: http://dlm.guam.gov

E-mail Address: dlmdir@land.guam.gov

Telephone: 671-649-LAND (5263)

Facsimile: 671-649-5383





DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÅHAN (Government of Guam)



EDDIE BAZA CALVO Governor

RAY TENORIO Lieutenant Governor MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

February 3, 2017

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Chairman, Application Review Committee (ARC)

SUBJECT: Summary of Position Statements by ARC

Re: Zone Variance for Signage - Application No. 2016-03,

Lot 5147-2B-R1, Tamuning

GLUC Hearing - February 9, 2017

Listed below is the compilation of Positions received from various ARC Member Agencies as submitted to Planning Division. The conditions as imposed by the ARC Member Agencies are listed when applicable.

1. <u>DEPARTMENT OF LAND MANAGEMENT (DLM)</u>: Recommends <u>APPROVAL</u> <u>WITH CONDITIONS:</u>

- A. That the applicant complies with all ARC conditions and all permitting requirements; and,
- B. Applicant shall provide a copy of the Occupancy Permit to the Guam Chief Planner.

2. BUREAU OF STATISTICS AND PLANS (BSP:

Based on the existing zoning sign regulations, the Bureau cannot support the request as it is not compliant with the Zoning Law (See attached).

3. <u>DEPARTMENT OF PARK AND RECREATION/HISTORICAL PRESERVATION OFFICE (DPR/HPO):</u>

DPR/HPO have determined that the proposed project will affect historic properties and they have no objections to approve the subject application. However, a post review discovery requirement may be imposed during DPW permitting review process.

Continuation: Summary of Position Statements by ARC Re: Zone Variance- Signage – Application No. 2016-03

Lot 5147-2B-1-R1, Tamuning GLUC Hearing – February 9, 2017

Page 2 of 2

4. **GUAM WATERWORKS AUTHORITY (GWA):**

No Objections with recommendations noted.

5. <u>DEPARTMENT OF PUBLIC WORKS (DPW):</u>

No Position Statement Received as of Staff Report

6. ENVIROMENTAL PROTECTION AGENCY (GEPA):

No Position Statement Received as of Staff Report Date.

7. GUAM POWER AUTHORITY (GPA):

No Objections with recommendations and requirements noted.

8. DEPARTMETN OF AGRICULTURE (DoAG):

No Position Statement Received as of Staff Report Date

EX OFFICIO

1. GUAM FIRE DEPARTMENT (GFD):

No Position Statement Received as of Staff Report Date

2. GUAM ECONOMIC DEVELOPMENT AGENCY (GEDCA):

NO OBJECTIONS.

3. DEPARTMENT OF EDUCATION (DOE):

Has not submitted a Position Statement as of Staff Report date.

4. DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES (DPHSS):

Has not submitted a Position Statement as of Staff Report date.

Marvin Q. Aguilar Guam Chief Planner

Case Planner: Penmer Gulac

ATTACHMENTS: Position Statements as noted



Eddie Baza Calvo

Ray Tenorio Lt. Governor

Department of Parks and Recreation Government of Guam

490 Chalan Palasyo Agana Heights, Guam 96910 Director's Office: (671) 475-6296/7

Facsimile: (671) 477-0997 Parks Division: (671) 475-6288/9 Guam Historic Resources Division: (671) 475-6294/5

Facsimile: (671) 477-2822



William N. Reyes Deputy Director

In reply refer to: RC 2016-0018

December 7, 2015

MEMORANDUM

To:

Executive Secretary, Guam Land Use Commission

From:

Director, Department of Parks and Recreation

Subject:

Application # 2016-03 Zone Variance request to Erect 2-Electronic LED Signs on

rooftop of a commercial building: Variance for Height and Sign Face Area; Lot

No. 5147-2B-1-R1, Tamuning, Guam

We reviewed the subject undertaking for the applicant Vantage LLC., & TAE S. OH, President and have no objection to the approval of this Zone Variance Application.

Should you have any questions, please do not hesitate to call us.

Sincerely,

S. Lizama



GUAM POWER AUTHORITY

ATURIDÅT ILEKTRESEDÅT GUAHAN P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

November 21, 2016

MEMORANDUM

To:

Chairman, Guam Land Use Commission

Executive Secretary, Guam Land Use Commission

From:

General Manager

Subject:

Lot 5147-2B-1-R1, Municipality of Tamuning, (Tae S. Oh for Vantage);

Zone Variance Application No. 2016-03

Guam Power Authority has reviewed the above-referenced application for zone variance for 2-LED SIGNS to be mounted on two sides of an existing commercial building.

GPA has no objection; however, customer is required to comply with the guidelines pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations.

GPA understands that the zone variance will allow the property owners to maximize the use and enjoyment of the property and that it is the intent of the applicant to bring the property into compliance with zoning regulations of Guam.

Agency Position:

GPA places no objection to the zone variance.

Impact Statement on GPA facilities:

Electrical service is available in the immediate area. No additional load from the applicant was submitted.

WOHN M. BENAVENTE, P.E

ASG/arp

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: Guam Power Authority Applicant: Tae S. Oh for Vantage Location: Lot 5147-2B-1-R1, Tamuning Type of Application: Zone Variance GLUC/GSPC Application No. 2016-03 Brief Project Description: For 2-LED SIGNS to be mounted on two sides of an existing commercial building. For the purposes of this Certification, GOVERNMENT SERVICES, FACILITIES, and INFRASTRUCTURE include, but are not limited to: power lines poles and facilities; water lines, pumps and facilities; sewer and liquid waste disposal; storm water disposal; solid waste disposal; telephone lines and facilities; schools; health facilities; police and fire fighting service and facilities; roads; traffic and street lights; parks and recreational activities. 1. I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently AVAILABLE AND IN PLACE to support this project: Yes 🖂 No \square 2. If the answer to #1 above is YES, then: I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently ADEQUATE to support this project: Yes 🖂 No \square 3. If the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE currently in place are NOT AVAILABLE or they are AVAILABLE, BUT NOT ADEQUATE, itemize the services, facilities and infrastructure that are needed, the estimated cost thereof and whether funds are currently available and identified to develop such services, facilities and infrastructure: Services, Facilities and Cost of Date Available **Funds Funds** Available Infrastructure Needed Upgrades Identified Please see comments below I hereby certify that the foregoing is true and correct to the best of my knowledge. 11-20-16 JOHN M. BENAVENTE, P.E. General Manager

Comments:

Electrical service is provided to the site from facilities in the immediate area. No additional load was submitted by the applicant.



GUAM WATERWORKS AUTHORITY

Gloria B. Nelson Public Service Building 688 Route 15, Mangilao, Guam 96913

MEMORANDUM

November 24, 2015

TO: Director, Department of Land Management

FROM: Greg P. Cruz, Acting General Manager

SUBJECT: Position Statement on Zone Variance Application No. 2016-

03 for Lot 5147-2B-1-R1, in a "C" (Commercial) zone, in the

Municipality of Tamuning.

APPLICANT: Vantage, LLC

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone variance for height of 40ft and sign face area to erect 2, 10ft x 30ft electronic LED signs on the rooftop of a 2-storey commercial building on Lot 5147-2B-1-R1, in a "C" (Commercial) zone, in the Municipality of Barrigada.

This memorandum shall serve as GWA's position statement to the above zone variance request related to availability of water and sewer infrastructures to serve the above subject lot. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve property shall be subject to the rules and regulations of GWA. Any required extension to the existing facilities to serve the subject properties shall be at expense of the applicant.

Given the information provided in the application and existing conditions observed in the field, the following is GWA's position on the zone variance application:

Page 2 GWA Position Statement ARC Application No. 2016-03 Applicant: Vantage, LLC

1. The applicant stated that the proposed project will not require water and wastewater services therefore; GWA has no objection to this application request.

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response. Please contact GWA Engineering Division regarding water and sewer system improvement design and construction standards and procedures. For additional information please contact Mr. Mark Miller, Interim General Manager, at 300-6845.



Eddie Baza Calvo Governor of Guam



Ray Tenorio
Lieutenant Governor

Government of Guam P.O. Box 2950 Hagåtña, Guam 96932 Tel: (671) 472-4201/3 Fax: (671) 477-1812

William M. Castro Director

JAN 13 2016

James T. M. James T. M. Deputy Dieser

MEMORANDUM

To:

Chairman, Guam Land Use Commission

Via:

Executive Secretary, Department of Land Management

From:

Director, Bureau of Statistics and Plans

Subject:

APPLICATION NO. 2016-03; LOCATION: Lot No. 5147-2B-1-R1, Tamuning;

APPLICANT: Vantage LLC. & Tae S. Oh; PROPOSED USE: Height and Sign

Variance for LED billboard sign

Buenas yan Håfa Adai! The applicant Vantage LLC. & Tae S. Oh, requests a zone variance application for height and sign for the erection of a LED billboard sign placed on the roof of the Tasi Building a 2-storey commercial building on Lot No. 5147-2B-1-R1 along Route 1; Marine Corps Drive and fronting West of Marine Corps Drive and Airport Road traffic light intersection in Tamuning. The subject property has an area of 17,448.2(±) square feet or .44 (±) acre and is zoned "C" Commercial zone. The proposed site for the sign is adjacent to various businesses and a major highway intersection operated by traffic lights. The proposed free standing sign will have two 10'x30' face area with each sign face having a 300 square feet area and will be displayed in a "V" formation. The sign will have a total height of 40 feet and will function twenty-four hours daily. The applicant proposes for sign and height variance with the respective requested and allotted listed as follows:

Allowed	Requested	Difference
40 SQF sign face	300 SQF sign face	260 SQF
(x2=80 SQF)	(x2 = 600 SQF)	(x2=520 SQF)
12 ft. in height	40 ft. in height	28ft.

The Bureau of Statistics and Plans (Bureau) has completed its review of the subject application and provides the following comments and recommendations. We refer to the Guam Code Annotated (GCA), Title 21, Chapter 61 Zoning Law; Part 5 Sign Regulations.

§61541 Restriction of Use.

"No structure of any kind or character erected or maintained for outdoor advertising or identification purposes, upon which any poster, bill, printing, painting, or other advertisement of any kind whatsoever is placed, including statuary for advertising or identification purposes, and no card, cloth, paper, metal, painted or wooden sign of any character placed for outdoor advertising or identification purposes, on or to the ground or any tree, wall, bush, rock, fence, building, structure or thing, either privately or publicly owned, shall be placed or maintained on property adjacent to any highway, road, street, boulevard, lane, court, place, summons, trail, way, or other right of way or easement used for



BSP Position Statement Application No. 2016-03 Page 2

or laid out and intended for the public passage of vehicles or of vehicles and persons except as provided below:

- (b) In Commercial zones, no exterior signs shall be erected displayed or maintained except the following:
 - (1) Signs indicating the name of a person or the type of business occupying the premises or the name of the building, provided that:
 - (A) Individual signs shall be non-flashing and nonmoving.
 - (B) Individual signs shall be placed flat on the building wall, shall not be higher than the roof line of the building, and shall project no further than eighteen (18) inches from the wall to which they are attached.
 - (C) Individual signs shall not cover an area in excess of ten percent (10%) of the surface of the wall to which they are attached.
 - (2) Free standing, doubled faced signs indicating the name of a person or the type of business occupying the premises or the name of the building, provided that:
 - (A) such signs shall not exceed forty (40) square feet in area on each face nor twelve (12) feet in height;
 - (B) such structure shall not be placed closer that ten (10) feet to any street or high way right-of-way; and
 - (C) one such sign shall be permitted for each premises or building."

§ 61543. Erection of Signs.

"All permitted signs shall be erected in such a manner as not to create a hazard to public safety or property, and shall be resistant to winds, typhoon, earthquake or other natural phenomenon. Engineering design shall be based on applicable sections of the Building Law of Guam (Chapter 66 of 21GCA). The Building Official shall set specific engineering design standards. Application, accompanied by detailed drawings and specifications shall be submitted to the Building Official, who will review said plans and grant permit for the erection of said sign, free-standing or attached. The Building Official shall refer said plans to the zoning inspector to assure conformity to the provisions of this Chapter."

- 1. Design. The Bureau finds that the proposed design is noncompliant by exceeding the sign face and height requirement by an excess of 260 sq. feet and 28 feet respectively pursuant to §61541 (b)(2)(A) as noted above. However, if the application were to be approved, the Bureau highly recommends the applicant coordinate with the Department of Public Works (DPW) Building Official to legally erect the sign pursuant to § 61543 as noted above.
- 2. Safety. The proposed signs are LED (Light-Emitting Diode), which means brighter images. Moreover, the electronic billboard will impart colorful, flashy, and moving images. The energy efficient feature of LEDs allows them to produce brighter light than other types of bulbs. Electronic billboards are designed to attract attention. The changing colors, bright lights, and moving images can effectively distract drivers. The proposed billboards face Rt. 1, one of Guam's main highway and busiest thoroughfare where traffic is exceptionally heavy and demanding. The LED billboards will beckon motorists and steer drivers' attention away from the road. The driver is at a much higher risk

Application No. 2016-01 Page 3

of being distracted and causing an accident, thus endangering the lives of other motorists or pedestrians. The sign may confuse drivers as it is directly in competition to the official traffic signals for drivers' attention which may lead to misinterpretation of traffic signals. Additionally, pedestrians are as likely to be distracted along with drivers. People crossing the street may focus all their attention on the LED sign and fail to notice oncoming vehicles. The Bureau finds that the proposed sign is noncompliant with Guam's sign code, wherein it states that individual signs shall be non-moving and non-flashing as pursuant to §61541 (b)(1)(A) as noted above.

3. Land Use. One of the land-use goals of the North and Central Guam Land Use Plan (NCGLUP) is to establish land use categories that provide for a mix of residential, commercial, civic, and industrial development to meet future population and employment needs.

Policy LU-1 (d) states: "The Mixed Use category primarily focuses on larger commercial centers and corridors, including commercial uses that require large sites and draw customers from throughout the Island. Examples of commercial uses appropriate to this category include but are not limited to department stores, malls, office buildings, medical and other service uses, hotels/motels and restaurants. Mixed use developments incorporating a variety of types and densities of residential units are also appropriate in this designation. Mixed Use development along corridors should be developed in a manner that focuses density in specific areas or 'transit targets' to support high-quality transit service, and should be developed at a walkable neighborhood scale. Along undeveloped corridors, the mixed use development should be interspersed with development that is lower in density to maintain natural character and open space."

Although, the project and the area is consistent with the NCGLUP's Mixed Use designation, the Bureau finds that the LED billboards will be an added distraction to motorists and a hazard to the community considering the purpose, size, type, and location of the sign.

In conclusion, the Bureau understands the applicant's desire for the proposed sign and height variance. However, the intent of Guam's sign regulation is to prevent signs such as this, in order to protect the community and motorist from visual blights and potential automobile or auto-pedestrian crashes. Therefore, the Bureau finds the project noncompliant with Guam's sign laws.

As government officials, it is our primary responsibility to ensure that the construction and operations of this proposed endeavor are in a manner designed to protect the public health, safety, and to promote the public welfare and convenience. We also encourage the applicants to protect Guam's natural resources and to ensure they are used in a sustainable manner.

JAMES T. MCDONALD

cc: GEPA DPW

GWA

DPR

GPA

DOAg

ATTACHMENT D

(Government of Guam)



EDDIE BAZA CALVO

RAY TENORIO Lieutenant Governor

Governor

DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUĂHAN

PARTMENT OF AND MANAGEMENT

MICHAEL J.B. BORJA

DAVID V. CAMACHO **Deputy Director**

February 6, 2017

MEMORANDUM

TO:

Chairman, Guam Land Use Commission

FROM:

Guam Chief Planner

SUBJECT:

Staff Report - Application No. 2016-31 Zone Change Lot 1-4-R1, Tract 1141, Ukudu, Municipality of Dededo;

GLUC Hearing - February 9, 2017

1. PURPOSE:

- A. Application Summary: The Applicant, GLS Yamas's Co., Inc. represented by Harry D. Gutierrez requests approval of a Zone Change from "A" (Agricultural) to "C" (Commercial) one for a proposed construction of a commercial building with retail and office spaces, an accessory storage/warehouse and vehicular and equipment parking area on Lot 1-4-R1, Tract 1141, Ukudu, Municipality of Dededo;
- B. Legal Authority: Title 21, Guam Code Annotated, Chapter 61 Article 6, Part 3 (Changes of Zones), Sections 61630 thru 61638 Zoning Law.

2. FACTS:

- A. Location: The property fronts Route No. 3 (NCS) Road and abut Inda street and is approximately 1,000 west of Ukudu High School and is abutting residential and fronting (across Route No. 2) light-Industrial zones and commercial zones under Dos Amantes Zoning Map, there are also 2-commercially zoned properties in Tract 1141, within 900-1,000 feet north of the proposed project. (See Vicinity Map attachment).
- B. Lot Area: 2,305 Square meters or 28,810 square feet; 0.62 acres
- C. Present Zoning: A" (Agricultural) Zone.
- The subject property is currently overgrown with D. Field Description: secondary vegetation and remains vacant with no structures. The site is fairly flat and slopes gradually to Route No. 3 and its abuts a access road to the inner lots and is approximately 100 feet west of the Navy Petroleum Lines (Utility access), also used by the surrounding neighbors traversing to Route

Street Address: 90 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

Mailing Address: P.O. Box 2950 Hagátña, GU 96932

Website: http://land.guam.gov

E-mail Address: dlmdir@land.quam.gov

Telephone: 671-649-LAND (5263)

> Facsimile: 671-649-5383



Staff Report - Application No. 2016-31 Zone Change Lot 1-4-R1, Tract 1141, Ukudu, Municipality of Dededo GLUC Hearing -February 9, 2017 Page2 of 4

No. 3. Land use activities within a 500-1,000 feet radius are mixed uses of single family, residential duplexes and a former church with a commercial warehouse activity and a commercial activity with construction office within 200 feet of Ukudu High School. Across the highway are formerly returned federal lands and zoned multi-family, commercial and light industrial on the west sector. A school zone is identified to the east (Ukudo High School) site. All utility infrastructures are within 100 – 200 feet east subject lot and along Route No. 3.

E. Masterplan: Rural-Agricultural use

F. Community Design Plan: Conservation/Open Space.

G. Previous Commission Action: None.

3. <u>APPLICATION CHRONOLOGICAL FACTS</u>:

A. Date Heard By ARC: July 7, 2016

B. Public Hearing Results: December 29, 2016 (See Attachment)

4. <u>STAFF ANALYSIS:</u> Pursuant to a §61630 of the zoning law, "the Commission may, with the approval of the Governor, change the zones established under [said] Chapter whenever it finds that the public necessity, convenience and general welfare justify such action". The applicant provides the following on these caveats:

On public necessity, the applicant provides the requested zone change to "Commercial" zone is a more prudent zone designation for the area. There other surrounding parcels have also been zoned to R2, Commercial, and Light Industrial, some lots are located across the highway (Route No. 3, NCS) are returned Federal land rezoned by GLUC within the Dos Amantes amendment map approved by the Governor of Guam on December 4, 2009. There are two (2) lots with commercial operations to the north within 700-900 feet along Route No. 3 and has not been a detriment to other current residential uses or school nearby. The proposed zone change of the lot and proposed uses are compatible with existing Commercial, Light/Heavy Industrial and some residential uses along Route No. 3 (NCS), in this area. The proposed land use and activities will provide the community with retail office spaces as well as professional office space and other permitted commercial services for the public's need. This area will lean towards a more commercial type oriented area along Route No. 3 to accommodate a growing island population and the anticipated military build-up in the next few years and beyond. There will also be greater demands for contracting services, and products and other goods that will be available to the island community for both private, military, and the general public.

On public convenience, the proposed zone change of the lot will afford public convenience for much needed retail, office spaces and commercial/professional office and service related activities at this location as it is centrally located that is consistent with the current land uses as an extension of the existing commercial zone along Route No. 3. The location is prime and ideal, central and conveniently near areas with large population to better provide contractor services, services related activities to the community; other construction of

Staff Report - Application No. 2016-31 Zone Change
Lot 1-4-R1, Tract 1141, Ukudu, Municipality of Dededo
GLUC Hearing – February 9, 2017
Page3 of 4

commercial buildings have started and are near completion near the site. The proposed development will continue to serve the needs of the growing community and surrounding areas.

On general safety and welfare, the proposed zone change of the lot will protect the the immediate surroundings and properties by being consistent for commercial zone in line with other commercial zoned lots, and light industrial lots across the highway that are along Route No. 3. At present time, there's a commercial lot that was used as a church and now an commercial office with accessory warehouse and is abutting on the southwest and other adjacent lots are a few residences that will be protected and buffered by a public access, as well as with landscaping of the site and all setbacks in compliance with the zoning law. Development plans for the proposed project site will ensure protection of adjacent neighbors, the public, and the environment, by adhering to all permitting requirements, as well as all local and federal regulations. The location is prime, ideal and is central to all areas with large population, and is very near commercial districts. The proposed new commercial development will be requiring products and other services from other commercial local vendors. The establishment of the company on this site and its operations will provide employment to local residents and contribute to the island's economic development and prosperity. The applicants/owners will ensure that all conditions and other requirements by permitting agencies are to be adhered to from clearing, construction and to final occupancy. The proposed development will be fenced if required for security and landscaped and will be kept in good order to buffer, protect neighbors, residences nearby and to provide an orderly, safe and appealing site.

We agree with the applicant's justification to the extent the property occurs on a routed road and the notion that development along such major roadways should be limited to non-residential use. Route 3 is presumed to serve as the core access way to and from areas presumed as "ground zero" for the much anticipated military buildup. However, this consideration should be a secondary effect as we must consider the island's long-term growth and projections of increase as population increases, with or without the buildup. And therefore, we believe a change of zone to commercial for such areas is in line with caveats of community development planning. As such, we do not anticipate the requested zone change will not reduce any zoning standards in the immediate vicinity, but rather, the improvements to the subject lot will suggest, if not encourage, this desired growth along Route 3. We are of the position the area is best suited for commercial type uses and related support activities.

We must note however, regardless of position on this request, that as of the date of this report, we have not received the required Agricultural Impact Statement (AIS) from Department of Agriculture. Pursuant to § 61637 of the zoning code, No additional land may be established as a rural zone and no land presently zoned ["A"] may be rezoned without the Commission first having considered an agricultural impact statement which shall be submitted by the Director of the Department of Agriculture [sic]. Thus, the Commission cannot consider a recommendation of approval until official receipt of an AIS is provided for its review.

Staff Report - Application No. 2016-31 Zone Change Lot 1-4-R1, Tract 1141, Ukudu, Municipality of Dededo GLUC Hearing – February 9, 2017 Page 4 of

not encourage, this desired growth along Route 3. We are of the position the area is best suited for commercial type uses and related support activities.

We must note however, regardless of position on this request, that as of the date of this report, we have not received the required Agricultural Impact Statement (AIS) from Department of Agriculture. Pursuant to § 61637 of the zoning code, No additional land may be established as a rural zone and no land presently zoned ["A"] may be rezoned without the Commission first having considered an agricultural impact statement which shall be submitted by the Director of the Department of Agriculture [sic]. Thus, the Commission cannot consider a recommendation of approval until official receipt of an AIS is provided for its review.

5. <u>RECOMMENDATION</u>: We recommend Approval, upon receipt of Agricultural Impact Statement (AIS).

larvin Q. Aguilar Juam Chief Planner

ATTACHMENTS

Case Planner: Penmer C. Gulac

(Attachment -) Public Hearing Results , December 29, 2916 Application No. 2016-31

The Public Hearing was conducted at the Dededo Community/Senior Ctr., at 6:00 pm. The Case Planner presented the proposed project and read the positions statements from Department of Public Works, Guam Power Authority, and Guam Waterworks Authority. Mr. Gutierrez (representative) highlighted details of the application; discussed the time frame of the application process, construction and completion time; access to the site and area of development. A total of 8 persons were in attendance to include Mayor Melissa Savares.

Public comments and concerns that were noted are as follows:

Mrs. Eva Los Banes; a neighbor, asked if her taxes will be going up because of the rezoning and further stated she has no objection.

<u>Planning Staff:</u> No. However, the value of your property may increase as it is near a commercial zone.,

Representative - Mr. Gutierrez: Informed those in attendance that the project is co-located or near commercial zones and some light industrial zones across the street, and that the applicant will keep the site presentable and fenced if required and landscape the development site as it is near residential site. He further started he and the owners have met with other line agencies, and will work closely for their requirements on the proposed rezoning application and development of the site. He also informed the the Mayor that developer will work with US Navy Facility Engineering as the site in near the Navy Petroleum Lines to the east of the property.

Mayor Savares: Stated she is aware of the potential commercialization growth here or near the immediate area as some operation have begun construction since GLUC approved their rezoning on the site (near the Ukudu High School) and that she said many lots are already zoned commercial, some light industrial on the Dos Amantes Map..its consistent land use and along the a main highway..and should not have a significant impact to the surroundings properties and residents or the existing school. Further, stated that traffic has increased in the area, that DPW and the Federal Government have already joint plans to upgrading Route No. 3 from Route No. 1 to Andersen main gate. Businesses here will hire local residents or new businesses will set up at this development site. A new medical clinic is nearing completion adjacent to South Fenegayan Nave Housing. New homes are being built in the area as it is near schools. This is good for our community and the MPC has no objection and supports the application for the rezoning.

There were no major concerns or objections on the application. The hearing was adjourned at 6:45 p.m.

Penmer Gulae, Project Planner



AN APPLICATION HAS BEEN FILED WITH THE GUAM LAND USE COMMISION (GLUC) FOR A

ZONE CHANGE REF: GLUC 2016-31

APPLICATION DESCRIPTION: TO REZONE FROM "A" (AGRICULTURE) TO "C" (COMMERCIAL) ZONE IN ORDER TO GO A COMMERCIAL BUILDING WITH OFFICE, RETAIL SPACE, PROFESSIONAL OFFICE SPACCESSORY STORAGE WAREHOUSE WITH ADEQUATE PARKING AND LANDSCAPING

OWNER: GLS, YAMA'S CO., INC. C/O HARRY D. GUTIERREZ, CONSULTANT

DEVELOPER: SAME AS ABOVE

LOT, BLOCK, TRACT, MUNICIPALITY: LOT 1-4-R1, TRACT 1141, UKUDU-NCS, DEDEDO, GUAM

PROPOSED CHANGE OF ZONE: REZONING FROM "A" (AGRICULTURAL) TO "C" (COMMERCIAL) ZONE

PUBLIC HEARING: DEC. 29, 2016

6:00 PM

: 30 PM

DEDEDO SENIOR CITIZEN / COMMUNITY CTR

3RD FLR, DLM CONFERENCE ROOM / ITC BLDG TAMUNING GUAM



ORIGINAL



Ray Tenorio Lt. Governor

Department of Agriculture Dipåttamenton Agrikottura

Director's Office
Agricultural Development Services
Plant Nursery
Aquatic & Wildlife Resources
Forestry & Soil Resources
Plant Inspection Station
Animal Health

300-7970 / 7969 / 7966 300-7973 / 7972 / 7967 300-7974 735-3955/56; Fax 734-6570 300-7975/6 475-1426/27; Fax 477-9487

300-7965 Fax 734-6569

Matthew L.G. Sablan Director

> Jessie B. Palican Deputy Director

WB 2/7 HEL US 2017

Department of Land Managemen

To:

January 31, 2017 Memorandum

Director, Department of Land Management

Attn:

Executive Secretary, Guam Land Use Commission and Guam Seashore Protection

Commission

From:

Director of Agriculture

Subject:

"Agricultural & Environmental Impact Statement" for a "Zone Change" request from an "Agricultural Zone" to an "Commercial Zone" on Lot. 1-4-R1 Tract 1141 Located off of Route 3 in Ukudu Municipality of Dededo (GLS, Yama's Co. c/o

Harry Guitierrez, Consultant).

Agriculture has reviewed the subject lot and request for a "Zone Change from an Agricultural to a Commercial" and finds that there are no major impacts to any agricultural activity in this immediate area. However please be aware that any "clearing and grading permits" will still need to be secured if the project comes to fruition and the construction phase is set to begin.

Agriculture would also recommend the implementation of and incorporation of a landscaping plan that helps to reintroduce native tree and other fruit tree varieties to help in protecting and maintaining the environment. Guam's entire northern part of the island is located directly above our Aquifer which supplies vital drinking water to the island. By using these trees as part of the landscaping plan you as a developer will help protect and maintain this vital natural resource for future generations. The trees root system will help prevent erosion and act as a natural filter to prevent chemicals and other contaminants from leaching into the Northern Aquifer. As an added benefit the trees will also provide buffering from Guam's frequent typhoons, storms and heavy rains as well as provide shading to buildings and customers to the area.

Please contact our **Agricultural Development Services & Forestry** divisions here at the agency for further assistance and guidance at 300-7972 & 7976 respectively. Our Forestry division grows and maintains these native tree species should you choose to incorporate them into the project.

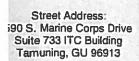
Contact their office for assistance and consultation at 300-7976. Please be aware that the increased loss of Guam's native habitat contributes to a diminished capacity to sustain and support a healthy island community.

It is vital that all land developers take a proactive step in preventing and causing this loss. To fully benefit and see these eco-friendly practices being used visit our **Department of Agriculture Organic and Environmental Demonstration Farm**. The farm helps to demonstrate the practical and beneficial uses of these species in effect.

For questions or concerns regarding Agriculture's position please contact our office at 300-7973. Thank you in this regard.

MATTHEW L.G. SABLAN

Director



Mailing Address: P.O. Box 2950 Hagåtña, GU 96932



E-mail Address: dlmdir@land.guam.gov

Telephone: 671-649-LAND (5263)



Facsimile: 671-649-5383



DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÅHAN (Government of Guam)



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

EDDIE BAZA CALVO Governor RAY TENORIO

February 6, 2017

MEMORANDUM

TO:

Guam Land Use Commission (GLUC) Members

FROM:

Chairman, Application Review Committee (ARC)

SUBJECT:

Summary of Position Statements by ARC

Re: Zone Change - Application No. 2016-31, Lot 1-4-R1, Tract 1141,

NCS, Dededo; GLUC Hearing – February 9, 2017

Listed below is the compilation of Positions received from various ARC Member Agencies as submitted to Planning Division. The conditions as imposed by the ARC Member Agencies are listed when applicable.

- 1. **DEPARTMENT OF LAND MANAGEMENT (DLM):** Recommends Approval pending submission of an Agricultural Impact Statement.
- 2. BUREAU OF STATISTICS AND PLANS (BSP): Provided comments and recommendations.
- DEPARTMENT OF PARK AND RECREATION/HISTORICAL PRESERVATION OFFICE (DPR/HPO): No Position Statement Received as of Staff Report Date.
- 4. **GUAM WATERWORKS AUTHORITY (GWA):** No Objections with recommendations and agencies requirements for utilities hookups.
- 5. **DEPARTMENT OF PUBLIC WORKS (DPW):** No Objections with conditions and recommendations as noted on their Position Statement (Attached).
- **6. ENVIROMENTAL PROTECTION AGENCY (GEPA):** No Position Statement Received as of Staff Report Date.
- 7. **GUAM POWER AUTHORITY (GPA):** No Objections with conditions and recommendations as noted on their Position Statement (Attached).

Subject: ARC Statements; Zone change Re: Lot 1-4-R1, Tract 1141, Dededo

GLUC: February 9, 2017

Page 2

8. DEPARTMENT OF AGRICULTURE (DoAG):

No Position Statement or AIS received as of Staff Report Date.

EX OFFICIO

- 1. GUAM FIRE DEPARTMENT (GFD):
 No Position Statement Received as of Staff Report Date
- 2. <u>GUAM ECONOMIC DEVELOPMENT AGENCY (GEDCA)</u>: NO OBJECTIONS.
- 3. <u>DEPARTMENT OF EDUCATION (DOE)</u>:
 Has not submitted a Position Statement as of Staff Report date.
- 4. <u>DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES (DPHSS)</u>: Has not submitted a Position Statement as of Staff Report date.

Marvin Ø. Aguilar Guam Chief Planner

Attachments: Accompanying ARC Position Statements



Eddie Baza Calvo Governor

> Ray Tenorio Lt. Governor

Department of Agriculture Dipåttamenton Agrikottura

163 Dairy Road, Mangilao, Guam 96913

Director's Office Agricultural Dev. Services **Animal Health**

Aquatic & Wildlife Resources Forestry & Soil Resources Plant Nursery

Plant Protection & Quarantine

300-7966 Fax 734-6569

300-7973 300-7964

735-3955 Fax 734-6570

735-3949/51 Fax 734-0111 300-7974

475-1426/1427 Fax 477-9487

www.guamagriculture.org



Matthew L.G. Sablan Director

Jessie B. Palican Deputy Director

February 1, 2017

MEMORANDUM

TO:

Department of Land Management Attn: Executive Secretary, Guam Land

Use Commission

FROM:

Director, Department of Agriculture

SUBJECT:

YAMA'S CO., INC. ZONE CHANGE APPLICATION

FOR 5302-2-R3 LOT 1-4-R1 FROM "A" (AGRICULTURAL)

To "C" (COMMERCIAL) UKUDU/NCS

(Above Corrected to read: Lot 1-4-R1, Tract 1141, Tkudu/NCS, Dededo

Buenas yan Hafa Adai.

The Department of Agriculture has no objections in the rezoning of the above captioned subject property from "A" to "C" but would like to be an advocate in the planting of trees, and other greenery as part of the aesthetics especially trees that are indigenous to Guam and plant species that are non-invasive. As part of the Department of Agriculture's regulatory role, acquiring proper clearing permits and assessment of property through a biological survey report may be required as the area may possibly contain certain plant and animal organisms that are indigenous to Guam and are listed with the United States Fish & Wildlife Service as protected and or endangered.

Should there be any questions in reference to this memorandum, please do not hesitate to contact the department of agriculture at 300-7965 7973. The Forestry and Agricultural Development Services Division can provide assistance recommending the best types of trees and plants to be incorporated into the landscape.

cc: USFWS





GLENN LEON GUERRERO
Director
FELIX C. BENAVENTE
Deputy Director

August 12, 2016

MEMORANDUM

TO:

Director, Department of Land Management

FROM:

Director

APPLICATION:

SCZ)2016-31

APPLICANT:

GLS Yama's Co. Inc.

SUBJECT:

Zone Change from Agricultural to Commercial on Lot 1-4R1, 1141, Dededo

Buenas yan Hafa Adai!

The applicant, GLS Yamas Co. Inc is requesting for a zone change from "A" to "C" located in Route 3, Ukudu, Dededo. The above subject lot is 500 feet west of Ukudu High School. The proposal is to build a commercial building which consists of offices, retail and service shops and parking for customer, staff equipment and commercial vehicles.

The Department of Public Works (DPW) has completed its review of the subject application and has no objection to the request provided the following conditions be in place:

- provide a preliminary lay out of the site development plan to incorporate the structure;
- adequate egress/ingress must be coordinated with Rights of Way Section;
- the parking layout and detail of parking stalls (compact, standard and accessible stalls) must meet the American Standard Disability Act; and
- to include the solid waste composition

NOTE: a) Specify what kind of heavy equipment and type of commercial vehicles that will be park because this will determine the status of the application; and

b) because its nearby Ukudu High School and the application includes a retail store that liquor and cigarette should not be allowed.

DPW recommends approval, subject to the comments reviewed by the Application Review Committee (ARC) with conditions that for building permit application must incorporate all the necessary engineering disciplines needed in the design drawings and must be in conformance with the latest building code edition including the applicable rules, regulations and ADA requirements.

Should you have any questions, please call Mr. John F. Calanayan, Acting Engineer in Charge or Maryrose M. Wilson, Engineer III in the Division of Capital Improvement Projects (CIP) at 646-3189/3224.

Dangkulu na Si Yu'os Ma'ase!

GLENN LEON GUERRER



GUAM POWER AUTHORITY

ATURIDÅT ILEKTRESEDÅT GUAHAN P.O.BOX 2977 • AGANA. GUAM U.S.A. 96932-2977

June 29, 2016

MEMORANDUM

To:

Chairman, Guam Land Use Commission

Executive Secretary, Guam Land Use Commission

From:

General Manager

Subject:

Lot 1-4-R1, Tract 1141, Municipality of Dededo, (GLS, Yama's Co., Inc.); Zone-Change

Application from "A" (Agricultural) to "C" (Commercial) to construct a commercia

building. Application No. 2016-31

Guam Power Authority has reviewed the application described above and submits the following position statement:

A. Comments and Recommendations Concerning GPA requirements:

- 1. GPA has no objection, however customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
 - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
 - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
 - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
 - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
 - Provide scheduling and magnitude of project power demand requirements for new loads.
 - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
 - GPA reserves its easement rights established at the Department of Land Management under document number 38547.
- 2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
- 3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
- 4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

B. General Comments

GPA has no objection to the request subject to the conditions cited above.

JOHN M. BENAVENTE, P.E

ASG/arp

K

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: Guam Power Authority

Applicant: GLS, Yama's Co., Inc. Location: Lot 1-4-R1, Tract 1141, Dededo Type of Application: Zone Change GLUC/GSPC Application No. 2016-31 Brief Project Description: "A" to "C" to construct a commercial building. For the purposes of this Certification, GOVERNMENT SERVICES, FACILITIES, and INFRASTRUCTURE include, but are not limited to: power lines poles and facilities; water lines, pumps and facilities; sewer and liquid waste disposal; storm water disposal; solid waste disposal; telephone lines and facilities; schools; health facilities; police and fire fighting service and facilities; roads; traffic and street lights; parks and recreational activities. 1. I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently AVAILABLE AND IN PLACE to support this project: No 🔯 2. If the answer to #1 above is YES, then: I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently ADEQUATE to support this project: Yes 🗍 No 🔯 3. If the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE currently in place are NOT AVAILABLE or they are AVAILABLE, BUT NOT ADEQUATE, itemize the services, facilities and infrastructure that are needed, the estimated cost thereof and whether funds are currently available and identified to develop such services, facilities and infrastructure: Services, Facilities and Cost of Upgrades **Funds** Date Available Funds Infrastructure Needed Available Identified Please see comments below I hereby certify that the foregoing is true and correct to the best of my knowledge.

Comments:

General Manager

Based on a preliminary inspection of the site, the electrical facilities <u>may</u> require upgrading to meet the demand of the proposed project. A system impact assessment maybe required to determine the effect of this facility on GPA's existing power distribution system. The applicant will be responsible for the cost of any required system upgrade.



GUAM WATERWORKS AUTHORIT'

Gloria B. Nelson Public Service Building 688 Route 15, Mangilao, Guam 96913

SEP 1 2 2013
Department of Land Management
Time 2:14 Intil

RECEIVED

9/17/2014

MEMORANDUM

August 22, 2016

TO:

Director, Department of Land Management

FROM:

Miguel C. Bordallo, P.E., General Manager

SUBJECT:

Position Statement on Zone Change Application No. 2016-

31 for Lot 1-4-R1, Tract 1141, in the Municipality of Dededo.

APPLICANT(S):

GLS Yama's Co., Inc c/o Harry D. Gutierrez

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone change from "A" (Agricultural) to "C" (Commercial) zone for the proposed construction of a commercial building with retail/service shops and business offices.

This memorandum shall serve as GWA's position statement to the above zone change request related to availability of water and sewer infrastructures to serve the above subject lot. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve property shall be subject to the rules and regulations of GWA. Any required extension to the existing facilities to serve the subject properties shall be at expense of the applicant.

Given the information provided in the application and field observations, the following comments explain GWA's position to support approval of this zone change application:

1. Future development must be covered under a Department of Public Works (DPW) construction permit. Plans and specifications must be submitted for GWA review and approval prior to construction. Submittals shall include water and sewer design calculations and complete drawings and specifications. Design calculations shall include water demand calculations and wastewater production calculations for the proposed development. Drawings shall delineate the water and wastewater service point of connection and provide specific connection details. If sewage



Page 2
GWA Position Statement
ARC Application No. 2016-31
Applicant(s): GLS Yama's Co., Inc. c/o Harry D. Gutierrez

disposal is to be accomplished by an Individual Sewage Disposal System, the plan must be in compliance with Guam Environmental Protection gency (GEPA) and GWA requirements.

- 2. GWA requires coordination with the GWA Engineering Department in advance of the permitting process to determine if available water and sewer system capacity can accommodate future development. Any offsite utility improvements necessary to support the proposed development shall be at the expense of the applicant. GWA's approval of the construction permit application will be contingent upon the applicant's agreement to construct the necessary offsite utility improvements. GWA's approval of the occupancy permit application will be contingent upon the completion of the offsite improvements.
- 3. Finalized property maps identifying public rights of way or easements must be submitted to GWA.
- Public water and sewer infrastructure facilities installed by the developer must meet GWA standards including construction on public rights of way or easements and inspection by GWA.
- 5. The applicant's construction plans shall include the proposed meter size(s) and identify water meters in the public right of way or easement.
- New development is subject to water and/or sewer system development charges (SDC).
- 7. Backflow prevention devices are required for non-residential activities.
- 8. Grease traps or interceptors are required for food service establishments.

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response. Please contact GWA Engineering Division regarding water and sewer system improvement design and construction standards and procedures. For additional information please contact Mauryn McDonald, P.E., Permits and New Area Development Supervisor, at 300-6054.

Eddie Baza Calvo Governor of Guam



William M. Castro Director

Ray Tenorio Lieutenant Governor

Government of Guam P.O. Box 2950 Hagåtña, Guam 96932 Tel: (671) 472-4201/3 Fax: (671) 477-1812

Manuel Q. Cruz Deputy Director

SEP 3 0 2016

MEMORANDUM

TO:

Chairman, Guam Land Use Commission

VIA:

Executive Secretary, Department of Land Management

FROM:

Director, Bureau of Statistics and Plans

SUBJECT: Position Statement on Application 2016-31; Lot 1-4-R1, Tract 1141

Municipality of Dededo, Guam from "A" Rural Zone to "C"

Commercial Zone; Applicant: GLS, Yama's Co. Inc.

Hafa Adai! Applicant, GLS, Yama's Co., Inc. represented by consultant, Harry D. Gutierrez seeks to rezone their property located in the Municipality of Dededo, from "A" Rural zone to "C" Commercial Zone. The applicant proposes to construct a commercial building for retail, service shops, and business offices. applicant also intends to landscape their property.

Lot 1-4-R1, Tract 1141 is located along Route 3 just off of Route 1, Marine Corps Drive. The vacant lot is 2,305 square meters or .62 acres and is surrounded by residential homes, commercial development, and a public school, Okkodo High School.

The Bureau of Statistics and Plans (Bureau) has completed its review of Application 2016-31 to rezone Lot 1-4-R1, Tract 1141 from "A" Rural Zone to "C" Commercial Zone and provides the following comments and recommendations.

Land Use. The North and Central Guam Land Use Plan (NCGLUP) is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified "Mixed Use" designation in the Future Land Use Map of the NCGLUP, which states:

"The Mixed Use category primarily focuses on larger commercial centers and corridors, including commercial uses that require large sites and draw customers from throughout the Island. Examples of commercial uses appropriate to this category include but are not limited to department stores, malls, office buildings, medical and other service uses, hotels/motels and restaurants. Mixed use developments incorporating a variety of types and densities of residential units are also appropriate in this designation. Mixed Use development along corridors should be developed in a manner that focuses density in specific areas or 'transit targets' to support high-quality transit service, and should be developed at a walkable neighborhood scale. Along undeveloped corridors, the mixed use development should be interspersed with development that is lower density to maintain natural character and open space."

The Bureau finds that the proposed commercial activity is consistent with mixed uses in accordance with the North and Central Guam Land Use Plan.

Agricultural District. Lot 1-4-R1, Tract 1141 is located in an "A" Rural zone in the municipality of Dededo. Guam's zoning law, 21 GCA Real Property, Chapter 16, §61637, states:

"No additional land may be established as a rural zone and no land presently zoned "A" may be rezoned without the Commission first having considered an agricultural impact statement which shall be submitted by the Director of the Department of Agriculture. This statement shall provide a detailed statement of:

- (a) The agricultural impact of the proposed rezoning upon the agricultural components of the Guam Master Plan.
- (b) Any adverse conservation or agricultural effects which cannot be avoided should the rezoning be approved.
- (c) The Director's opinion whether said rezoning should be approved and reasons therefore."

The Bureau recommends the applicant, GLS, Yama's Co., Inc. to submit an agricultural impact statement addressed to the Director of the Department of Agriculture as required by Guam's zoning law.

Aquifer Protection from Commercial Waste. The subject property is in the boundary of the Ground Water Protection Zone of the Northern Guam Lens Aquifer. The aquifer is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA a sole source aquifer for Guam's drinking water. Therefore, it is of paramount importance to prevent

sources of contamination from entering Guam's water supply.

The Bureau is concerned that activities from the proposed commercial zone will adversely affect Guam's sole source aquifer. The Bureau recommends that the property owner, comply with the following:

- 1. Implement practices for managing waste to avoid potential contamination and ensure long term protection of the aquifer pursuant to the "Resource Conservation and Recovery Act of 1976."
- 2. Comply with an Aquifer Protection Review pursuant to the Federal Safe Drinking Water Act, §1424 and Guam Safe Drinking Water Act, 10 GCA Chapter 53. The property owner must work closely with Guam Environmental Protection Agency (EPA) for this review and for implementation of best management practices (BMPs) in preventing runoff from contaminating Guam's sole source aquifer in accordance with the CNMI Guam Stormwater Management Manual.
- 3. Coordinate with the Guam Waterworks Authority (GWA) for water resource conservation and water pollution prevention in protection of the Northern Guam Lens Aquifer pursuant to the "Water Pollution Control Act," 10 GCA Chapter 47; "Water Resources Conservation Act," 22 GCA Chapter 5; 10 GCA Chapter 46, as amended by P.L. 17-87, and the Guam Water Resource Development & Operating Regulations.

Low Impact Development (LID). The subject property is also located in the Mataguac Spring-Frontal Pacific Ocean Watershed. This area has seen an increase in impervious surfaces throughout the years. In between the years 2005 and 2011, the impervious surface area increased by more than five percent according to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP). As surface area increases so does the risk of flooding and degradation of water quality.

The LID approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features and minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Impervious surfaces from roads, parking lots, driveways, sidewalks, and rooftops accelerate stormwater runoff.

The Bureau is concerned that once impervious surfaces are installed, commercial wastes are easily washed into the aquifer. If not managed, this activity can adversely impact Guam's drinking water source and surrounding neighbors.

The Bureau recommends the property owner to consider a green approach by implementing island bioretention, permeable parking and walkways, living roofs, grassed swales and/or rain gardens as a means to avoid or minimize runoff from their property. These approaches will add great benefits such as low maintenance, stormwater management, aquifer recharge, beautification, and neighborhood collaboration in accordance with the North and Central Guam Land Use Plan. An electronic file of the guidebook "Island Stormwater Practice Design Specifications" is available on the Bureau's, Guam Coastal Management Program's website www.bsp3.guam.gov.

Historical and Archaeological Resources. The Bureau recommends coordination with Department of Parks and Recreation, State Historic Preservation Office to ensure the preservation, protection, excavation, and evaluation of specimens and sites pursuant to "Historical Objects and Sites", 21 GCA, Chapter 76.

In light of the points presented above, the Bureau finds that the zone change from Rural Zone to Commercial Zone is consistent with the North and Central Guam Land Use Plan "Mixed Use" designation. However, we also find that commercial activities can detrimentally affect Guam's sole source aquifer and surrounding neighbors if best management measures are not in place to control stormwater runoff and prevent contaminants from entering the aquifer. Subsequently, if this application is approved, the property owner is highly encouraged to implement best management and LID practices as stipulated above.

As government officials, it is our primary responsibility to ensure that the construction and operations of this proposed endeavor are in a manner designed to protect the public health, safety, and to promote the public welfare and convenience. We also encourage the applicant to protect Guam's natural resources and to ensure they are used in a sustainable manner.

WILLIAM M. CASTRO

WONDERFUL RESORTS LLC MOVED TO THE NEXT GLUC MEETING OF FEBRUARY 23, 2017 EMPANELMENT OF HYBRID COMMISSION IS REQUIRED